IN THE CIRCUIT COURT OF THE UNITED STATES FOR THE EASTERN DIVISION OF THE EASTERN JUDICIAL DISTRICT OF MISSOURI

UNITED STATES OF AMERICA, PETITIONER,

v.

STANDARD OIL COMPANY OF NEW JERSEY ET AL., DEFENDANTS

DEFENDANTS' TESTIMONY

On behalf of the defendants:

Mr. JOHN G. MILBURN, Mr. MORITZ ROSENTHAL
Mr. JOHN S. MILLER, Mr. M. F. ELLIOTT, Mr. MARTIN CAREY, Mr. F. L. CRAWFORD, Mr. DOUGLAS CAMPBELL

On behalf of the petitioner:

Mr. FRANK B. KELLOGG, Mr. C. B. MORRISON
Mr. J. HARWOOD GRAVES

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8649 L. J. DRAKE, recalled on behalf of the defendants, testified as follows:

Direct examination by Mr. ROSENTHAL:

Q. You are the same L. J. Drake who has heretofore testified in this case?—A. Yes, sir.

Q. Your position with the Standard Oil Company now is what?—A. I have charge of the correspondence of the Standard Oil Company of Indiana from here.

Q. Previous to your coming here you were located where?—A. At Chicago.

Q. In charge of what?—A. The Standard Oil Company of Indiana.

Q. In what capacity?—A. General manager.

Q. Do you know a man by the name of W. N. Davis?—A. I know the man; yes, sir.

Q. W. N. Davis testified in this case. Where did he live?—A. Kansas City.

Q. Mr. Davis testified that 17 or 18 years prior to 1905 he was local manager for the Consolidated Tank Line Company at Kansas City; that he (Davis) received information as to competitive shipments from receiving clerks of different railway freight houses, and that his traveling salesmen were notified of such shipments and were instructed to have the orders countermanded if possible, and to make such prices to the consignees that no more goods should be sold to them by others. The time fixed by him therefor is around about 1890, with respect to that subject-matter of his testimony. What were you doing at that time?—A. I was living in Omaha at that time
8650 and had charge of the Standard Oil Company at Omaha, but this man was discharged from the service of the company before I took charge of the business at Kansas City.

Q. Did you ever take charge of the Consolidated Tank Line Company?—A. Yes, sir.

Q. When?—A. You are referring now to Kansas City?

Q. Yes, sir; at Kansas City.—A. In 1888.

Q. And how long were you in charge of the business of the Consolidated Tank Line Company at Kansas City?—A. Until it was sold out to the Standard Oil of Kentucky.

Q. And when was that?—A. I am not positive, but I think in 1892.

Q. Davis was discharged, was he, as Kansas City manager of the Consolidated?—A. Yes, sir.

Q. Who succeeded him?—A. He was assistant manager under Mr. J. W. Swaine.

Q. You succeeded the management of Mr. Swaine?—A. Yes, sir.

Q. How long after Davis was discharged was it that you went to Kansas City to take charge of that office?—A. Very shortly after he was dismissed from the service.

Q. And continued there, as I understand you, for four years?—A. Yes, sir.

Q. Until the Consolidated was purchased by the Kentucky company?—A. Yes, sir.

Q. What practices, if any, did you find in vogue in the Kansas City office with respect to receiving information of competitive shipments at the time you went there?

A. I found no such information being taken as stated by Mr.
8651 Davis; I didn't find any arrangements made to get information.

Q. And during the four years that you were there, what was the practice in that regard?—A. We had no practice in regard to it.

Q. Were you getting information from railway employees during those four years——A. Not to my knowledge.

Q. Of competitors' shipments—A. Not to my knowledge.

Q. What about a practice, if any existed, of attempting to get, or getting information of sales made, and thereafter attempting to have those sales countermanded by making a lower price?—A. To my knowledge there was never any such arrangement made.

Q. Or was there any practice of that kind in vogue when you came there or during the four years that you were there?—A. No, sir.

Q. Were you in a position to know, Mr. Drake, if there had been?—A. Yes, sir.

Q. Do you know what became of Davis?—A. He is in the oil business in Kansas City.

8652 Q. With whom?—A. In business by himself.

Q. After he was discharged by the Standard Oil Company he went into business for himself, did he?—A. Yes, sir.

Q. And has been in business there as a competitor ever since?—A. Yes, sir.

Q. And he is the same Davis that testified in this case?—A. Yes, sir.

Q. Who was Edward P. Pratt?—A. He was the manager at one time at Kansas City for the Consolidated Tank Line Company.

Q. Do you know when?—A. No, sir; I can not tell you the date.

Q. About when was he manager?—A. I think it must have been about 1896, somewhere along there, perhaps 1897.

Q. I think he testified that he was manager of the Consolidated Tank Line Company from 1890 to 1892.—A. I am not positive just when he was there.

8653 Q. You were manager of the Consolidated Tank Line at Kansas City at that time, were you not?—A. I had general charge of the business there all through the West.

Q. Was Pratt under you?—A. Yes.

Q. In what capacity?—A. As manager at Kansas City.

Q. As local manager at Kansas City?—A. Yes, sir.

Q. He testified that at that time, 1890 to 1892, he had arrangements with clerks in freight houses to give him lists of competitive shipments, and instructed his salesmen to stop such shipments, or secure the consignees' future trade by making prices sufficiently low for that purpose. What have you to say with respect to that?—A. If he did it, he did it on his own authority, without any instructions from me, or consulting me in regard to it.

Q. Were you his superior officer?—A. Yes, sir.

Q. Did you ever come in contact with any such information yourself while you were there in charge of the business of the Consolidated Tank Line Company?—A. No, sir.

Q. Or did you ever authorize Pratt to secure any information of that kind?—A. No, sir.

Q. Or provide any money for the obtaining of any information of that character?—A. No, sir.

Q. Have you any knowledge at all of any practice of that kind existing in the Kansas City office?—A. I have not.

Q. During the time you were there?—A. I have not.

Q. What authority, if any, did Pratt have to cut prices in his territory?—A. Mr. Pratt was the manager of that field there.

8654 If there were any radical changes to be made, the business was to be taken up with me; but otherwise than that, he had no authority to make any radical change.

Q. Were you consulted generally with respect to the making of prices or the changing of prices?—A. Yes, sir.

Q. Do you know of any practice in existence there involving the changing of prices for the purpose of eliminating competition?—A. No, sir; I do not.

Q. Do you know a man by the name of W. H. Hawkins?—A. Yes, sir.

Q. Who was he?—A. Mr. Hawkins was employed with us there at one time as superintendent of tank wagons.

Q. Employed by the Consolidated Tank Line Company as superintendent of tank wagons?—A. Yes, sir.

Q. At Kansas City?—A. Yes, sir.

Q. He testified in the Missouri case and his testimony was read into the record of this case that from 1890 to 1897, while he was superintendent of tank wagons at Kansas City, he had a rebate system whereby if a person were not buying from the Standard he would offer him a sufficient rebate to obtain his trade for the Standard. What, if any, authority did Hawkins have with respect to that?—A. He never had any authority from me in regard to it.

Q. Would he get his authority from anybody else?—A. The only authority he could get would be from the local manager at that point.

Q. The local manager was who?—A. Mr. George Mayer.

Q. From whom would Mayer have to get his authority?—A. He would have to get his authority from me if there were any radical changes made in prices.

8655 Q. Did you authorize Mayer to permit Hawkins to do anything of that kind?—A. No, sir.

Q. Or did you know of its being done?—A. No, sir.

Q. Is it or is it not true that a practice of that kind was in existence during those years while you were there?—A. Not to my knowledge.

Q. Could it have been done without your knowing of it?—A. Not to any great extent, I do not think; no sir.

Q. This same man Hawkins testified that the Standard Oil Company at that time, in the early nineties, ran a system of peddling wagons under the name of Sutton Brothers for several years, and that about 1892 bought out the Excelsior Oil Company, of Wichita, Kansas, and operated the wagons of the Excelsior at Kansas City as a blind, keeping the wagons at Sutton Brothers' barn and paying the drivers through Sutton Brothers. What do you say with regard to that?—A. The Excelsion Oil Company was bought out by the Consolidated Tank Line Company at Topeka, I think it was, and their wagons, some of them, were sold to Sutton Brothers, who were running the business themselves.

Q. Running what business?—A. The peddling business.

Q. Who bought out the Excelsior?—A. The Standard Oil Company of Kentucky.

Q. At the time that the Standard of Kentucky sold to Sutton Brothers the wagons of the Excelsior Oil Company, did the Standard Oil Company own the business of Sutton Brothers?—A. No, sir; the Standard Oil Company did not own the business.

Q. Did it ever own or acquire the Sutton Brothers business?—A. Yes, sir.

8656 Q. Where were the Sutton Brothers doing business?—A. At Kansas City.

Q. What kind of a business?—A. Selling oil, retail.

Q. Peddling?—A. Largely peddling; yes, sir.

Q. Were they doing a successful or a losing business?—A. They were not making very much money.

Q. And about when was it that the Standard bought out Sutton Brothers?—A. I do not recollect just the time—some time in the 90's.

Q. In the early 90's?—A. Yes, sir; 1892, '3, or '4.

Q. Did the Standard seek Sutton Brothers?—A. No, sir; they came to us and wanted to sell.

Q. What are the facts with respect to that?—A. There was a time in Kansas City when there was quite a profitable business in peddling oil, but the retail stores reduced the market so low that there was not margin enough for it to be a profitable business, for any peddlers

to make any money in Kansas City. They asked us to buy out their property, horses, and wagons, which we did.

Q. Did you then use Sutton Brothers for the purpose of competing with other oil peddlers in Kansas City?—A. No, sir; there were very few other oil peddlers there. We ran that business for a short time and closed it out, sold the horses and wagons.

Q. When you say a short time, what do you mean by that?—A. I think somewhere in the neighborhood of a year.

Q. Was it used by the Standard for the purpose of competing with any particular independent oil dealers there?—A. No, sir.

8657 Q. You had purchased the business, and acquired whatever good will there was of it?—A. Yes, sir.

Q. And ultimately amalgamated it with your other business there?—A. Yes, sir.

Q. After running it for about a year?—A. Yes, sir.

Q. Mr. Hawkins also testified that you instructed him to give rebates at Kansas City, principally for the purpose of enabling him to compete with Scofield, Shurmer & Teagle and the National Oil Company. What are the facts about that?—A. I never gave Mr. Hawkins any instructions in regard to rebates of any kind.

Mr. KELLOGG. Are you not mistaken about that, Mr. Rosenthal? Did he not say that Mr. Drake was not the one?

Mr. ROSENTHAL. Further on he says Mr. Drake gave him those instructions.

WITNESS. I always did my business with the manager who had charge of the business there. I never gave any instructions to any subordinate at any of those stations.

Q. The National Oil Company was a competitor of the Standard at Kansas City?—A. Yes, sir.

Q. Has it continued so since?—A. Yes, sir. It is doing a successful business there to-day.

Q. And is it doing a larger business now than it was when you were there?—A. They are doing fully as much business; yes, sir.

Q. Well, it is one of your substantial competitors in that field, is it not?—A. Yes, sir.

Q. And always has been, ever since it was in the field?—

8658 A. Ever since I have known it.

Q. Ever since you have know that situation?—A. Yes, sir.

Q. Did you ever get any information of competitive shipments through employees of the Missouri Pacific Railway Company?—A. No, sir; I never did.

Q. Did you ever hear of any such information being obtained, while you were in Kansas City?—A. No such information was ever given to me.

Q. I presume, Mr. Drake, that your drivers and salesmen and employees generally were instructed, were they not, to get all the information that they legitimately could of a competitor's business?—A. Yes, sir.

Q. And such information could be obtained by observing drivers when they went to railway stations?—A. Yes, sir.

Q. Or by observing salesmen when they went to call upon their trade, could it not?—A. Yes, sir.

Q. And that information could be obtained under those circumstances without much difficulty, could it not?—A. Yes, sir.

Q. And your drivers and your salesmen, as I understand, were instructed to report all information secured in that way, when secured, were they not?—A. Yes, sir.

Q. You were desirous of knowing what your competitor was doing?—A. Yes, sir.

Q. To whom your competitor was selling?—A. Yes, sir.

Q. When he was selling?—A. Yes, sir.

Q. And in what quantities, if possible, he was selling?—A. Yes, sir.

Q. How old a man are you?—A. 65 years old.

8859 Q. How long have you been connected with the Standard?—A. Thirty-two years.

Q. Were you in charge of the Council Bluffs territory in 1895?—A. Yes, sir.

Q. In what capacity?—A. I was general manager of the business in that vicinity.

Q. Located where?—A. At Omaha.

Q. Do you know a man by the name of Frank Gamerl?—A. I know of such a man; yes, sir.

Q. Was he ever an employee of the Standard at Council Bluffs?—A. I think he was, a short time.

Q. Do you remember in what capacity?—A. I think he was a salesman.

Q. Gamerl testified that in 1895 he secured information of competitive shipments, from railway employees at Council Bluffs, by giving away oil to such employee. What is the fact about that?—A. I do not know of any such arrangement being made, as positive instructions had been issued time and again to all employees, that under no circumstances would we give away oil or any of our goods.

Q. If that was done, it was done on his own initiative?—A. Yes, sir.

Q. And contrary to instructions?—A. Yes, sir.

Q. Do you know a man by the name of E. M. Wilhoit?—A. Yes, sir.

Q. He appeared before the Interstate Commerce Commission as a witness, and his testimony has since been read into this

8860 case. Was he ever employed by the Standard?—A. Yes, sir; he was employed by the Consolidated Tank Line Company.

Q. With headquarters at Wichita?—A. At Topeka.

Q. He afterwards started in business for himself, did he not?—A. Yes, sir.

Q. Where?—A. At one time he had a place at Wichita, and then he went to Springfield, Missouri.

Q. He testified, among other things, to the effect that cars containing his supply of oil were a number of times delayed at Springfield by the railway company, and that the Standard Oil Company always knew the condition of his supply at Springfield, and that when his supply was low and he was in great need of cars, the cars were held back on him, and that that frequently happened. What do you know about that?—A. I do not know anything about it, because I had nothing to do with Springfield, and the Standard Oil Company did not do any business there.

Q. The Standard Oil Company did not do any business whatever in Springfield?—A. No, sir.

Q. This same man Wilhoit testified that while he was a salesman at Wichita, he, Wilhoit, had an unlimited price, and that after he got information of competitive shipments, he would go to the consignee and sell to such consignee cheaper than he would sell to his next-door neighbor. What about that statement?—A. Mr. Wilhoit never had any instructions or any prices different from anybody else, and he never had any instructions to make any prices necessary to get business.

Q. Did he have unlimited prices?—A. No, sir.

8661 Q. An unlimited price?—A. No, sir.

Q. For the purpose of meeting competition?—A. I never heard of such a thing.

Q. Well, did he have it?—A. No, sir.

Q. He was a mere salesman, was he not?—A. That is all.

Q. Where did he get his prices from?—A. Kansas City.

Q. Where did Kansas City—the salesmen—get their prices from—from you as the general manager?—A. No, sir; the sales men got them from the local manager at Kansas City.

Q. Did Wilhoit have any authority to go out and cut prices?—A. No, sir.

Q. Did any of your salesmen have any such authority?—A. No, sir; not to my knowledge.

Q. Well, you would have known if they had had such authority?—A. Yes, sir.

Q. Did Wilhoit have any general authority to go to a customer of a competitor and sell oil cheaper to him than he was selling it to anyone else?—A. No, sir.

Q. As I understand you, then, he simply got his prices from the office out of which he traveled?—A. Yes, sir.

Q. Where is Wilhoit now, do you know?—A. At Springfield, Missouri.

Q. And he is in business for himself, is he not?—A. Yes, sir.

Q. A competitor of the Standard Oil Company?—A. He is a competitor there of the Waters-Pierce Oil Company.

Q. Did Wilhoit have any authority to contract with oil jobbers, wholesale grocers who were handling oil in large quantities,
8662 at prices less than the regular market price?—A. No, sir; he had no authority whatever to sell to jobbers.

Q. Wilhoit testified, among other things, that he, while agent at Topeka, was allowed $6 or $8 a month to get information from railway employees, and was also permitted to make donations of oil and promises of employment for such information. Was he in your territory while he was agent at Topeka?—A. Yes, sir.

Q. Under your general supervision and charge?—A. Yes, sir.

Q. What do you know, if anything, about his having any money allowed him for any such purposes?—A. I do not know a thing about it.

Q. Did he have any money allowed him for any such purpose?—A. Not that I know of—not to my knowledge.

Q. Were you in a position to know if such had been the fact?—A. Possibly I would not know anything about it.

Q. Suppose a practice of that kind had been in existence in your territory, wouldn't you know of it?—A. I should know of it; yes, I would know of it.

Q. And what is the fact with respect to the existence of any such practice at Topeka, so far as you know?—A. So far as I know, there was no such practice. No authority was ever given by me of any kind.

Q. During the time that you were in charge of that western territory did you have any arrangement with any inspector of oils in the State of Kansas looking to the getting of information from him for the Standard Oil Company?—A. No, sir.

Q. Wilhoit testified that there was some arrangement with
8663 an inspector by the name of Kelly, who was bribed for the purpose of giving the Standard a sample of the oil of the National Oil Company. What have you to say about that?—A. I never knew of any such arrangement. In fact, it would not be necessary to make any such arrangements with the inspector to get a sample of National Oil Company oil; that is a very easy matter, to go and buy a sample from those to whom they sell. We could go to any retail grocer that is selling their oil and get a sample of their oil by buying it.

Q. It would be rather a far-fetched proposition, would it not, to undertake to bribe the State oil inspector to get a sample of oil that you could get in any one of a thousand grocery stores?—A. I think it would be simply most ridiculous.

Q. Wilhoit also testified, this same Wilhoit who is now in business for himself, that if he were selling for the Standard at a high price and a competitor came into his territory and sold at the same or a less price, he, Wilhoit, under instructions, was supposed to substitute a cheaper oil and guarantee its quality as being superior to that of the competitor. Is that true or false?—A. That is false in every respect.

Q. Where did the agents at Topeka get their prices from?—A. The Kansas City office.

Q. Had they any authority to make their own prices?—A. Kansas City?

Q. No; Topeka.—A. No, sir.

Q. Or to send salesmen out from there to make prices?—A. From Topeka; no, sir.

Q. And what about their right or authority, on their own
8664 initiative, to substitute one oil for another?—A. They had no such authority whatever. It was positively against instructions.

Q. Wilhoit testified that it was quite a common practice to sell as many as three different brands of oil from one storage tank. What about that?—A. I do not know of any such practice. The only case in mind would be, possibly, where we would carry probably two grades of oil, water white and prime white; if we would get out of prime white oil and a man wanted a barrel of it we would give him a barrel of water white instead of being at the expense of shipping some prime white there and he would tell him, explain it to him. That is the only instance I know of.

Q. That is, where a man ordered prime white?—A. Yes, sir.

Q. Which was the cheaper oil of the two——A. Yes, sir.

Q. And you were out of the cheaper oil——A. Yes, sir.

Q. You would send him the water white, which was the more expensive oil?—A. Yes, sir.

Q. For the same price at which he had theretofore been buying the prime white oil?—A. Yes, sir.

Q. And if he wished to, I suppose, brand it prime white?—A. Yes, sir.

Q. In order to satisfy his trade?—A. Yes, sir.

Q. I presume that was because a trade, being accustomed to a grade of oil known as prime white, might insist upon getting that oil rather than water white, although water white was the better and more expensive oil?—A. Yes, sir.

Q. And under such circumstances there might be a substi-
8665 tution?—A. That is the only case I have any recollection of.

Q. Well, that would be all to the advantage of the retailer and the ultimate customer?—A. Yes, sir.

Q. This same dealer, Wilhoit, testified that he had been given certain directions with respect to keeping up stock; that the directions were that an agent ought to be able to get out of 200 gallons of oil 205 to 208 gallons for sale purposes, and that general instructions of that character were given. Is that true or not?—A. It is not true; no, sir.

Q. How do you keep tally on the oil which is taken out by the agent?—A. The tank-wagon business?

Q. Yes, tank wagons first. How much oil will the ordinary tank wagon take out from the station?—A. The tank wagons which were

being used there held about 450 gallons. When the tank wagon was filled to its capacity it would hold 450 gallons.

Q. How do you keep tab on that?—A. When he sells his oil he issues a ticket for it and he has a coupon when he comes in showing the sale.

Q. But what check is there on the amount of oil which he takes out?—A. We measure it in to him.

Q. That is measured in to him?—A. Yes, sir.

Q. And then that exact amount of oil is charged up to him?—A. Yes, sir.

Q. What is the system, then, of accounting to the company for the oil that he thus takes out?—A. He has to return the money or the oil—the money for the sale of the oil, or the oil.

Q. All that the company can possibly get then from the agent or tank-wagon driver who thus takes the oil out is so
8666 much a gallon for each gallon of oil that he has taken out?—A. Yes, sir.

Q. Have you ever known of a case where a tank-wagon driver has turned in an amount greater than what he ought propertly to have accounted for?—A. No, sir; I never heard of such a circumstance.

Q. I suppose, in your long experience, you have heard of tank-wagon drivers who have from time to time tried to cheat the customer by withholding oil?—A. Oh, yes.

Q. And then selling the oil that they withheld from the customers and pocketing the money?—A. Yes; we have had those conditions.

Q. Those cases arise from time to time throughout the country, do they not?—A. Yes, sir.

Q. Wilhoit also testified that when he was a traveling salesman for the Standard Oil Company of Indiana, in the nineties, from 1890 to 1894, the Standard kept a record of percentages in the towns in his territory, of the oil sold by competitors, and that where the percentage exceeded a certain amount in a given community the price was cut by the Standard, or that a low retail price was thereupon fixed by the Standard, acting in collusion with some local merchant. Is that true?—A. No, sir; not to my knowledge.

Q. Well, you would have known of it, would you not?—A. Yes, sir.

Q. If there was any such practice in existence in the territory of which you were manager?—A. Yes, sir.

8667 Q. It is a proposition that, if it existed at all, would be right up to you as the manager of that field, would it not?—A. Yes, sir.

Q. No one else could undertake to do a thing of that kind?—A. No, sir.

[Paper handed to witness.]

Q. How does the Standard Oil Company of Indiana sell its refined oil, naphtha, and gasoline?—A. They sell it by tank wagons, wooden barrels, iron barrels, bulk, in cans, and in cases.

Q. Have you the percentage of business done by the Standard Oil Company of Indiana throughout its entire territory, in refined oil, done by tank wagons, for the year 1906?—A. Yes, sir.

Q. How much is it?—A. 77.22 per cent.

Q. That is, of its total refined oil business, in 1906, 77.22 per cent was oil sold from tank wagons?—A. Yes, sir.

Q. What percentage was sold in milk cans?—A. 41.

Q. In wooden barrels?—A. 10.46 per cent.

Q. In iron barrels?—A. 1.41 per cent.

Q. In bulk?—A. 7.57 per cent.

Q. In cases?—A. 0.70 per cent.

Q. In cans to the consumers?—A. 22.23.

Q. Can you tell us through what territory the Standard Oil Company of Indiana sells oil—the different States?—A. Yes, sir.

Q. Please let us have it.—A. In Kansas, part of Missouri, all of Iowa, North and South Dakota, Minnesota, Wisconsin,
8668 Michigan, Illinois, and Indiana.

Q. Take first Indiana. How does it sell its oil in Indiana?—A. Largely by tank wagon.

Q. Does all of its oil come from Whiting?—A. No, sir.

Q. I presume a very large percentage of it comes from Whiting?—A. A very large percentage of it; yes, sir.

Q. Do you remember how many main stations it has in Indiana?—A. Three, I think.

Q. And on an average, in the other States named by you, how many main stations in each of those other States?—A. There are four in Iowa, there are two in Kansas, in Michigan there are two, in Wisconsin there is one, in Illinois there are three.

Q. And then there are substations in addition to those main stations?—A. Yes, sir.

Q. All of the oil that is sold in Indiana from tank wagons is supplied to the tank wagons either from a main station or a substation, is it not?—A. Yes, sir.

Q. And is that true of oil supplied to tank wagons in each of the other States named?—A. Yes, sir.

Q. How large are those storage tanks at the main station, as a rule?—A. From 5,000 to 10,000 barrels capacity.

Q. And at the substations?—A. They run from 200 to 500 barrels capacity.

Q. What is and has been, during the years that you have been connected with the company, the practice of the company in regard to keeping these tanks filled?—A. We keep these tanks full of
8669 oil in the busy season of the year. In the summer season, when the business is light, we do not keep the tanks so well filled.

Q. What is the practice of the company throughout these States in connection with these storage tanks in so far as the supply is concerned? How long a supply do you aim to keep in your various tanks located at the main and substations?—A. Thirty to sixty days.

Q. A thirty to sixty day supply?—A. Yes, sir.

Q. These tank wagons that load up at these various stations—it is true, is it not, that they go out into the immediate vicinity of those stations and dispose of their oil?—A. Yes, sir.

Q. So that that business is entirely within the State where the storage tank is located, is it not?—A. Yes, sir.

Q. And is it true that all of those tank-wagon sales in the Indiana territory are made for cash, or otherwise?—A. Cash.

Q. All cash sales?—A. Yes, sir.

Q. Of the 77.22 per cent of your refined oil that is sold from tank wagons, what percentage of that refined oil thus sold from tank wagons passes from one State to another?—A. About 0.32 per cent.

Q. That, I presume, is due to the fact that in a few cases the storage tank happens to be located near a State line?—A. Yes, sir.

Q. How large are these milk cans in which oil is sold?—A. They hold 10 gallons.

Q. Why do you sell oil in milk cans?—A. They are used in
8670 the fall and spring of the year when the roads are very bad and it is impossible to haul a tank wagon.

Q. And are those deliveries made, with that exception, in the same way and under the same circumstances as tank-wagon deliveries?—A. Just exactly; yes, sir.

Q. The only difference being that a very small fraction of the business is thus done by the use of milk cans?—A. Very small; yes sir.

Q. You stated that 10.46 per cent of the total refined oil business done by the Standard of Indiana was done in wooden barrels?—A. Yes, sir.

Q. Where are those barrels filled?—A. Those barrels are, most of them, filled at the main stations.

Q. And, generally speaking, to whom are they sold?—A. A great deal of that is sold to railroads or jobbers.

Q. And delivered how?—A. By railroad.

Q. I suppose a great deal of that is sold to jobbers whose places of business are inaccessible to tank-wagon delivery?—A. Yes, sir.

Q. And that necessitates the use of barrel delivery. Is that so?—A. Yes, sir.

Q. Now, have you figures showing how much of that 10.46 per cent thus sold in wooden barrels passes from one State to another——A. Yes, sir.

Q. In the progress of its delivery?—A. 0.83 per cent.

Q. So that all of that 10.46 per cent excepting 0.83 per cent is
8670 sold entirely within the respective States where those wooden barrels are filled from the tanks?—A. Yes, sir.

Q. And are those sales in the main cash sales also?—A. No, sir; those are not cash sales.

Q. Those are time sales?—A. Those are time sales.

Q. Now 1.41 per cent of the total refined oil business, you stated, was done through the use of iron barrels?—A. Yes, sir.

Q. They are shipped, I presume, in the same way and under the same circumstances as wooden barrels?—A. Yes, sir.

Q. Iron barrels being used, however, in but few instances as compared with the wooden barrels?—A. Yes, sir.

Q. Is that right?—A. Yes, sir.

Q. And of that 1.41 per cent of your total refined oil business done in iron barrels, what portion of it passes from one State to another?—A. 0.55 per cent.

Q. The remainder consists of sales then that are entirely made within the State where the barrels are filled at the respective tanks?—A. Yes, sir.

Q. 7.57 per cent of your total refined oil business consists of sales made in bulk. What do you mean by that?—A. I mean in tank cars or to peddlers who come to the warehouses and get the oil.

Q. You say come to the warehouses. You mean come to the tank stations, do you not?—A. Yes, sir; the tank stations.

Q. And I presume those are largely sales made to peddlers, are they not?—A. Yes, sir.

Q. Who call at the station to receive their oil?—A. Yes, sir.

Q. How much of that 7.57 per cent is sold right at the
8671 storage tanks?—A. All excepting 0.66 per cent.

Q. 2.23 per cent of the total refined oil business done by the Standard of Indiana consists of deliveries made to consumers in cans?—A. Yes, sir.

Q. How much of that passes from one State to another?—A. Not any of it.

Q. It is all intrastate, is it not?—A. Yes, sir.

Q. 0.70 per cent of your total refined oil business, as you have already testified, is in cases. What does a case consist of?—A. Two 5-gallon cans.

Q. And to what class of customers are they sold?—A. They are sold in a great many places where they go out into the mines, delivered where the oil has to be hauled into the mining district.

Q. How much of that is interstate and how much intrastate?—A. It is all within the State.

Q. Within the State where it is tanked?—A. Yes, sir.

Q. Now, those figures that you have given are figures for the year 1906, are they not?—A. Yes, sir.

Q. They show, do they not, that all but 0.39 per cent of the total refined oil business of the Standard of Indiana was intrastate?—A. Yes, sir.

Q. Have you figures made up in the same way for the naphtha and gasoline sold in the year 1906 by the Standard of Indiana?—A. We have it for 1905 and I think we have it for 1906.

Q. Are naphtha and gasoline stored in the same way as refined oil is stored?—A. Exactly; yes, sir.

Q. And sold in the same way?—A. Yes, sir.

8672 Q. By tank wagon, barrels, and cans?—A. Yes, sir.

Q. And the deliveries in precisely the same way as you have described in connection with the sale of refined oil?—A. Yes, sir.

Q. That is correct, is it?—A. Yes, sir.

Q. And I think you have the figures there in connection with naphtha and gasoline for the year 1906, just as you have for refined oil?—A. Yes, sir.

Q. Do those figures show that all but 0.33 per cent of the total naphtha and gasoline sold by the Standard of Indiana was sold, for the year 1906, entirely within the State where such naphtha and gasoline were stored?—A. Yes, sir.

Q. And therefore entirely intrastate?—A. Yes, sir.

Q. Now, Mr. Drake, from your long experience in connection with the business of that company, what would you say, or what do you say as to whether these figures which you have given us, covering the sales of refined oil and naphtha and gasoline, will average substantially the same for the other years, from, say, 1890 down to 1906?—A. I would say that they would not average as much in bulk or tank wagon——

Q. I mean with respect to percentages?—A. Oh, the percentages, yes, sir; would run about the same.

Q. The percentages would run about the same from year to year?—A. Yes, sir.

Q. The total quantity of each, of refined oil or of naphtha or of gasoline, might increase or decrease from year to year, but the percentages, in their relation to the deliveries and in their relation to the sales being intrastate or interstate, would be substantially the same from year to year, would they not?—A. Yes, sir.

8674 Cross-examination by Mr. KELLOGG:

Q. Where is the refinery of the Standard Oil Company of Indiana?—A. At Whiting, Indiana.

Q. Where does it get its crude oil?—A. I couldn't answer you where they get all the crude oil. They get some from Illinois and they get some from Kansas.

Q. You know where it all comes from, don't you?—A. I know where all the crude comes from, but I don't know where all the crude comes from that goes into the Whiting refinery.

Q. You know it comes from certain oil fields, by certain pipe lines, don't you?—A. I am not familiar with that part of the business.

Q. You know where its pipe lines run, don't you?—A. I know they have got some pipe lines out West; yes, sir.

Q. Where are they?—A. I don't know where they are located particularly. I know there are some from Kansas and Oklahoma to Whiting.

Q. You know it has a pipe line leading from the Kansas and Oklahoma fields to Whiting, Indiana, don't you?—A. Yes, sir.

Q. And it gets some oil from there?—A. Yes, sir.

Q. And it is pumped all the way from Oklahoma and Indian Territory and Kansas to Whiting?—A. Yes.

Q. It gets some oil from Ohio and Indiana and Illinois, doesn't it?—A. I think it does.

Q. It has a pipe line extending into the Illinois field, or at least there is a pipe line extending into the Illinois
8675 field, into the Indiana field, and into the Lima, Ohio, field, isn't there?—A. They have a pipe line from the Indiana field into Whiting. I couldn't tell you anything about the pipe line from Illinois, because I don't know.

Q. Don't you know that oil has been piped and is being piped from the Lima, Ohio, and Indiana field, from both Ohio and Indiana, to Whiting, Indiana?—A. Yes, sir.

Q. Then, it gets part of its oil from Ohio, doesn't it?—A. It used to. I don't know whether it does now or not.

Q. All the oil it gets, except that which comes from Indiana, is pumped across the State line in Indiana to be manufactured, isn't it?

Mr. ROSENTHAL. We will concede that.

Mr. KELLOGG. I will see whether he will swear to it.

Q. That is a fact, isn't it?—A. Mr. Kellogg, I don't know anything about the pipe-line business.

Q. You were general manager, were you, of the Standard of Indiana?—A. Yes, sir.

Q. For how many years?—A. Oh, for 20 or 25 years.

Q. During that time you knew where it got its oil, didn't you?—A. I knew where it used to get its oil; yes. I am not familiar with the——

Q. Oh, I don't pretend to say that you have walked over the pipe lines.—A. No.

Q. But you know where they are located, don't you?—A. Where the pipe lines are located?

Q. Yes.—A. No; I don't know.

8676 Q. You know what oil fields they take, don't you?—A. I know we get oil from Indiana, Ohio, and Kansas.

Q. You know how you get it, too, don't you?—A. Yes.

Q. You know it comes by pipe lines?—A. Yes, sir.

Q. From those fields?—A. Yes, sir.

Q. What percentage of its oil does it get now from Indiana?—A. I don't know.

Q. You don't know anything about it?—A. No, sir.

Q. It is not a very large percentage, is it?—A. I don't know a thing about it.

Q. You don't have anything to do with that now?—A. No; I never had.

Q. When you were general manager you knew where it got its oil, didn't you?—A. No, sir; I had nothing to do with it.

Q. As general manager you didn't know where it got its oil?—A. I had nothing to do with the pipe-line business; no, sir.

Mr. ROSENTHAL. He was not general manager of the Whiting refinery.

WITNESS. I had nothing to do with the Whiting refinery.

Mr. ROSENTHAL. He was connected with the merchandizing end of it.

WITNESS. I had nothing whatever to do with the manufacturing or the pipe-line business.

Q. Now, you say it markets all the oil in Iowa; that is, the Standard of Indiana is the marketing company in Iowa?—A. Yes, sir.

Q. And it used to be in Nebraska, didn't it?—A. Yes, sir.

Q. When did it give up Nebraska?—A. About three years
8677 ago, I think.

Q. About two years ago?—A. About two or three years ago; I couldn't tell you exactly.

Q. It then organized a Standard Oil of Nebraska, didn't it?—A. I understood they did; yes, sir.

Q. Of which it owns the stock?—A. I don't know, sir.

Q. What was the object of its withdrawing from Nebraska?—A. I don't know.

Q. It was fired out of the State by the State authorities, wasn't it?—A. I don't know; I don't think so.

Q. Weren't you in charge of the marketing business of the Standard of Indiana at that time?—A. Yes, sir.

Q. Didn't you inform yourself of the reason it withdrew from Nebraska?—A. No, sir.

Q. You never knew anything about it?—A. I knew they did, yes, sir; I knew they did, but I don't know the reasons.

Mr. ROSENTHAL. Why, Mr. Kellogg knows that they were not fired out, and he knows there never was any suit attempting to fire them out.

Q. Will you tell me the reason you withdrew the Standard of Indiana from Nebraska?—A. No, sir.

Q. You don't know?—A. No, sir.

Q. You did it, did you?—A. No, sir.

Q. Who did it?—A. I don't know. I suppose the directors and officers——

Q. You were in charge?—A. I am in charge of the marketing department. I haven't anything whatever to do with the balance of the details of the company.

8678 Q. Were you a director of the Standard of Indiana?—A. No, sir.

Q. Simply general manager?—A. That is what I was; yes, sir.

Q. You haven't any knowledge whatever of the reason it withdrew from Nebraska?—A. No, sir; I have not.

Q. You know you withdrew, that is all?—A. That is all I know.

Q. It was never discussed with you?—A. Never.

Q. Nobody ever asked you?—A. No, sir.

Q. Who notified you that they had withdrawn?—A. Mr. Moffett.

Q. The president?—A. Yes, sir.

Q. He gave you no reason for it?—A. No, sir.

Q. You asked no questions?—A. No, sir.

[Mr. Kellogg laughs.]

WITNESS. That is right. It was none of my business.

Mr. ROSENTHAL. The Standard Oil Company of Nebraska is doing business in Nebraska now, isn't it?

WITNESS. Yes.

Q. How did you happen to know that?—A. It is a very easy matter to know that. I knew they withdrew from our company and went into business for themselves.

Q. How did you happen to know that the Standard of Nebraska was organized?—A. Mr. Moffett told me so.

Q. He told you about that, did he?—A. Yes, he told me that.

Q. Was that any of your business?—A. No, sir.

Q. He didn't couple that with any information of the reason
8679 you got out?—A. No, sir; nothing at all.

Q. The Standard of Indiana marketed all of the oil which the Standard Oil companies sold in the States you have mentioned, didn't it?—A. What we sold there, yes.

Q. That is, no other Standard company sold in your territory, that you know of?—A. No, sir; not that I know of.

Q. Now, all of the oil sold in this territory except the State of Indiana was shipped into those States from Indiana, was it not?—A. All of the oil? No, sir.

Q. Where was it shipped from?—A. Some of it was shipped from Sugar Creek and some shipped from Neodesha, Kansas.

Q. Yes, but prior to the establishment of the manufactory at Sugar Creek and at Neodesha it was all shipped from Whiting, wasn't it?—A. The majority of it.

Q. Well, substantially all of it?—A. The majority of it.

Q. The majority means 51 per cent.—A. Oh, yes.

Q. You know it was more than that, don't you?—A. Yes.

Q. More than 90 per cent?—A. No, I don't think so.

Q. You don't?—A. No.

Q. Well, what percentage did go from Indiana?—A. I don't know what the percentage was.

Q. When was the refinery established at Sugar Creek, Missouri?—A. About seven years ago.

Q. About seven years ago?—A. Somewhere in that neighborhood; yes, sir.

Q. Wasn't it in 1904?—A. No, I don't think so.

8680 Q. Do you know it was seven years ago?—A. I know it was about that length of time, yes.

Q. It was 1904, wasn't it?—A. In Sugar Creek?

Q. Yes; Sugar Creek, Missouri.—A. 1904?

Q. Yes.—A. Possibly it might have been that time. I don't know the exact time.

Q. What percentage of the oil is now shipped from Whiting, Indiana, into those States?—A. I couldn't tell you the percentage.

Q. Oh, you can tell pretty nearly.—A. No, I could not.

Q. 75 or 80 per cent?—A. No; I don't think so; not now; no, sir. There is a good deal of oil shipped from Sugar Creek and Neodesha and Wood River.

Q. Where is Wood River?—A. Wood River is down near Alton, Illinois.

Q. Near Alton, Illinois?—A. Yes, sir.

Q. When did you build that refinery?—A. Two years ago, I think.

Q. How long?—A. About two years ago.

Q. When did it commence business?—A. Commenced getting oil from there last year.

Q. Prior to that time what percentage of the oil came from Whiting and what percentage from other places?—A. I don't know.

Q. Haven't you any idea at all?—A. No, sir; I haven't any idea of the percentage.

Q. And yet you have charge of the marketing?—A. Yes, sir.

Q. What percentage came from Sugar Creek and Neo-
8681 desha?—A. I couldn't tell you the exact percentage.

Q. Haven't you got any idea?—A. No.

Q. Can't you find out?—A. Yes; I guess I could find out.

Q. Well, make up figures showing the percentage of oil shipped into this territory from Whiting, Indiana; from Sugar Creek, Missouri; from Neodesha, and from Wood River, Illinois, will you, and from other points outside of the State in which you market?—A. I will if my attorney says so.

Q. When will you find out whether he says so or not?—A. I will ask him when I get through—to-morrow morning.

Q. You will?—A. Yes.

Q. And then you will report at 10.30, will you?—A. To-morrow?

Q. Yes.—A. Yes, sir.

Mr. CAMPBELL. It will take him a month to do it.

WITNESS. You must bear in mind it will take a good while to get these figures.

Mr. ROSENTHAL. Oh, that doesn't make any difference to Mr. Kellogg.

Q. If you don't know anything about it, I want you to inform us.—A. All right.

Q. How did you happen to know down to the exact percentage of the oil that is carried by tank wagons across from one State to another?—A. I got the figures from our books.

Q. You didn't try to inform yourself as to the percentage of oil that was brought across the State line by tank cars, did you?—A. No, sir.

8682 Q. With the exception of the State of Indiana, nearly all of this oil is shipped into the States from outside, is it not, by the Standard Oil of Indiana?—A. Shipped in there from our different refineries; yes, sir.

Q. The Standard of Indiana is the one that does the shipping, isn't it?—A. Yes, sir.

Q. Now, take the State of Iowa. Every gallon of oil that you sell in the State of Iowa the Standard of Indiana ships in there from outside of the State, doesn't it?—A. Yes, sir.

Q. How many hundred substations have you got to which you ship oil directly from the various refineries?—A. About 1,100.

Q. And at these substations and main stations you put it into tanks?—A. Yes, sir.

Q. You take it out, then, and ship it in either by tank wagon or by barrels or cans, or some other process?—A. Yes, sir.

Q. Now, the oil that is sold in Indiana, part of it is shipped from outside of the State, isn't it?—A. Some of it; yes, sir.

Q. Yes; you ship some from Ohio, do you?—A. Ship some from Lima.

Q. From Lima, Ohio?—A. Yes, sir.

Q. And the rest from Whiting, Indiana?—A. Yes, sir.

Q. Part of that oil that is shipped from Whiting, Indiana, is shipped out of the State and then back in again?—A. I don't know of any instance.

Q. You don't know of any instance?—A. No, sir.

Q. Well, you ship oil from Whiting to Evansville and Terre Haute, don't you?—A. Indiana; yes.

8683 Q. Over the Chicago & Eastern Illinois and the Evansville & Terre Haute railroads?—A. I don't know what roads it goes over.

Q. You don't know anything about it?—A. No, sir.

Q. Who gives the shipping directions?—A. The freight department.

Q. Where do they get the information?—A. What information?

Q. As to where to ship.—A. We give them the orders to ship the stuff.

Q. You give them the orders, don't you—your department?—A. Yes.

Q. Then you know where it is going, don't you?—A. We know where it is going.

Q. You know over what railroads it goes, don't you?—A. No, sir.

Q. You don't know anything about it?—A. No, sir.

Q. In Missouri, prior to the establishment of the refinery at Sugar Creek, you shipped all of the oil into Missouri from outside the State, didn't you?—A. Yes, sir.

Q. In Kansas, prior to the establishment of the refinery at Neodesha, you shipped all the oil in from outside the State, did you?—A. Yes, sir.

Q. Since that time you use some oil there from those refineries?—A. Yes, sir.

Q. Oil going to Minnesota, North and South Dakota, and Wisconsin is shipped from Whiting by boat, isn't it, to some extent?—A. To some extent; yes.

Q. To Milwaukee?—A. That is not shipped by boat; no,

8684 sir; not to Milwaukee.

Q. Not to Milwaukee?—A. No.

Q. Shipped by rail?—A. Yes, sir.

Q. To Duluth and Superior?—A. Yes, sir; by boat.

Q. And distributed from Duluth and Superior into Minnesota, Wis.——A. It is distributed into Minnesota and North Dakota.

Q. Into South Dakota?—A. No.

Q. And Wisconsin?—A. No; none to Wisconsin.

Q. None to Wisconsin?—A. No, sir.

Q. But you ship oil to Superior, Wis., and distribute it there?—A. Yes; but we don't distribute it back into Wisconsin from there.

Q. You do not?—A. No, sir.

Q. That is shipped by tank steamers, isn't it?—A. Yes; by barges.

Q. Now, you say most of the barrels are filled at the main or substations?—A. Yes, sir.

Q. Where are the rest of them filled?—A. They are not filled anywhere else except at the main and substations.

Q. I didn't hear your answer.—A. We only fill barrels at the main and substations.

Q. Well, you said most of them were filled at the main and substations.—A. All of them are filled there.

Q. Are all filled at the main stations?—A. Except that which we ship from Whiting.

Q. That is what I asked you. Where are the rest shipped
8685 from?—A. From Whiting.

Q. Do you ship some from Whiting into the various territories by barrel?—A. Yes, sir.

Q. How much?—A. I don't know the percentage from Whiting.

Q. Well, is it quite a business, or isn't it?—A. It isn't a large business in barrels; our barrel business isn't large anywhere.

Q. But you have constantly shipped from Whiting some by barrels, have you, into these various States?—A. Yes, sir.

Q. Do you ship lubricating oils that way, more or less?—A. Yes, sir.

Q. To St. Louis, East St. Louis, and points down in that country?—A. We ship some to East St. Louis.

Q. To East St. Louis?—A. Yes.

Q. You always have, have you?—A. Yes, sir; for a good many years.

Q. In barrels?—A. In barrels; yes.

Q. In carloads or less than carloads, or both?—A. Both, generally.

Q. Now, you say you ship into part of Missouri. The northern part of Missouri?—A. Yes.

Q. What company does the marketing in the balance of Missouri?—A. The Waters-Pierce, I believe.

Q. The Waters-Pierce Oil Company. Does it buy a large part of its oil from the Standard of Indiana?—A. They buy a good deal of oil from the Standard Oil Company of Indiana.

8686 Q. Where is the line which divides the territory in which the Waters-Pierce sells from the territory in which the Standard of Indiana sells?—A. I couldn't tell you the line offhand where we sell or where they sell—the different countries; I couldn't tell you offhand.

Q. There is a dividing line?—A. We have a certain field that takes care of that.

Q. And they have a certain field?—A. Yes.

Q. When was that established?—A. I don't know.

Q. Did you establish it?—A. No, sir.

Q. Who did?—A. I don't know who did. It was before I had charge of it.

Q. You keep out of their territory and they keep out of yours?—A. They don't sell much oil up there; no, sir.

Q. They don't sell any in your territory, do they?—A. Oh, yes; sometimes.

Q. When they sell in your territory you are furnished the statement of it, are you?—A. No, sir.

Q. You are not?—A. No, sir.

Q. When you sell in their territory, don't you furnish them the statement of it?—A. No, sir.

Q. Never do?—A. No, sir.

Q. Do you sell any in their territory?—A. Yes, sir.

Q. How much?—A. I don't know how much; some.

Q. Get some way over the line, do you?—A. Not a great deal of stuff; some stuff.

Q. Just a little way over the line?—A. We sell some stuff down in there.

8687 Q. Now, where do you sell any in southern Missouri—illuminating oils?—A. I couldn't tell you the different points.

Q. Do you sell any in southern Missouri? Did you last year?—A. Yes, certainly.

Q. Where?—A. I couldn't tell you offhand.

Q. How do you know you did, then?—A. Well, I know we did. I know we get orders from there occasionally, and we ship it.

Q. Lubricating oil or——A. Lubricating, refined oil, and gasoline.

Q. Mighty small amount, isn't it?—A. It isn't very large.

Q. Now, those orders are turned over to the Waters-Pierce Company?—A. No, sir.

Q. You ship it from Whiting, Indiana?—A. No, sir; ship it from our nearest station.

Q. Well, it isn't much of a business, is it?—A. Not very large.

Q. Can you furnish us one single shipment made into any of that territory?—A. I presume I can.

Q. Will you?—A. If I can I will; yes.

Q. Furnish us one.—A. I will try.

Q. Furnish us all the shipments you made into the Waters-Pierce territory, will you?—A. All right.

Q. Will you?—A. I will if I can; yes, sir.

Q. You say of none of those shipments in Waters-Pierce territory the statements were furnished to the Waters-Pierce Com-

8688 pany?—A. We don't furnish them any statements.

Q. Didn't they give you the profits?—A. No, sir.

Q. Are you sure of it?—A. Yes, sir; as far as I know, we never got the profits.

Q. Generally speaking, you don't sell oil in their territory?—A. Generally speaking, we do not.

Q. And they do not in yours?—A. No, sir.

Q. That is the understanding?—A. There isn't any understanding about it.

Q. You don't do it, anyhow?—A. No, sir.

Q. How do you know there isn't an understanding?—A. There isn't to my knowledge.

Q. Why don't you market in their territory?—A. We market it in the field where we have our business.

Q. It would be easy enough for you to get business down there, wouldn't it?—A. I don't know as it would. I don't know how easy it would be.

Mr. CAMPBELL. You market in the territory where your stations are located?

WITNESS. Yes.

Q. I suppose this just happened?—A. Yes; just happened.

Mr. ROSENTHAL. Sure!

WITNESS. Just happened.

Q. Now, Mr. Drake, don't you know that you have among the Standard companies certain territory to market in, and the
8689 others keep out of your territory?—A. We have a certain field we market in; yes.

Q. And that is the general plan of the Standard Oil companies all over the United States? Don't you know that?—A. I don't know all over the United States. I only know my own business, that is all.

Q. Who was Mr. G. W. Mayer?—A. The manager at Kansas City.

Q. He had charge of how much territory?—A. Why, he has a part of Kansas and some business in Missouri.

Q. Was he ever the manager in Iowa?—A. No, sir.

Q. Mr. Wilhoit was under him at one time, was he?—A. Yes, sir.

Q. Mr. Mayer had authority over Mr. Wilhoit, had he?—A. Yes, sir.

Q. And over his territory?—A. Yes, sir.

Q. In Missouri and Kansas?—A. In Kansas. Mr. Wilhoit didn't go into Missouri.

Q. Did he in Kansas?—A. Yes.

Q. You say that you had no knowledge of the use of money to pay for information of outside shipments?—A. Yes, sir.

Q. You never had any knowledge of it?—A. No, sir.

Q. There was introduced into this case a letter from G. W. Mayer to Mr. E. M. Wilhoit, which reads as follows:

"DEAR SIR: After the first of November I will discontinue sending you check in payment"——

Mr. ROSENTHAL. What is the date?

Mr. KELLOGG. "10/26/96, Kansas City, Missouri."

Mr. ROSENTHAL. 1896?

8690 Mr. KELLOGG. I think that is it.

Mr. CAMPBELL. That is right.

Mr. KELLOGG. (Reading:)

"After the first of November I will discontinue sending you check in payment of outside information which you have been getting us. Mr. Drake wants us to stop these payments beginning the first of the month. I think no doubt you can get the bulk of the information if you will watch the matter in your territory, and I wish you would please take particular pains to give us all the outside shipments as far as you can ascertain. If you will make it a special point to watch for these shipments, I am confident you will be able to get the bulk of this information for us. At the 1st of the month I will make you a remittance as formerly sent you, but after that date there will be no check mailed you in payment of this information.

"Yours truly, G. W. MAYER."

Did you direct Mr. Drake to stop making payments?—A. Mr. Mayer; yes, sir.

Q. You did?—A. Yes, sir.

Q. He had been paying Mr. Wilhoit, had he?—A. I heard so.

Q. For information?—A. I understood he had.

Q. Then, it is true, isn't it, that you did know of information being bought under Mr. Mayer's direction?—A. *No, sir.* I had got information from somebody that such things were being done, and I wrote Mr. Mayer that we would not tolerate any such thing, as it was positively against the instructions of the company.

8691 Q. Where is the letter that you wrote him?—A. I don't know, sir.

Q. Will you get it?—A. No, sir; I don't know where it is.

Q. You don't know where it is?—A. No, sir; but I wrote that letter.

Q. You did write it?—A. Yes, sir.

Q. Then, it is true that Mr. Mayer, who was the manager of that territory, had been buying information, isn't it?

Mr. ROSENTHAL. He doesn't say so. He says he heard he had been.

WITNESS. I heard he had been doing this, and I wrote a letter. I stopped it as soon as it came to my knowledge.

Q. This says: "Mr. Drake wants us to stop these payments beginning the first of the month."—A. Yes.

Q. You wouldn't stop anything unless it had been going on, would you?—A. I didn't know anything about that.

Q. You were informed about it?—A. In fact, I swore I didn't know anything about it, and I say so still.

Q. You were informed of the fact, weren't you?—A. I got it from outside, through somebody else.

Q. Then, you were informed that money had been paid to buy information?—A. I heard so from outside sources and stopped it.

Q. Then, when you said to-day you never heard of it being done, that wasn't true, was it?—A. It wasn't true that I had given any instructions.

8692 Q. It wasn't true that you had never heard of it?—A. It is true that I had heard of it through a roundabout way, and it is true that it was positively against instructions and I stopped it the minute it came to my attention.

Mr. CAMPBELL. This was in 1896?

WITNESS. Yes, sir.

Q. Now, if Mr. Mayer was doing that in one territory, perhaps he was doing it in some other place.—A. I don't know, sir.

Q. You don't know?—A. I don't think so. I think he inherited that from the manager preceding.

Q. Who was the manager preceding him?—A. Mr. E. P. Pratt.

Q. Then, Mr. E. P. Pratt had been doing it, had he?—A. He may have been; I don't know.

(An adjournment was here taken until the morning of Friday, September 11, 1908, at 10.30.)

8693 ROOM 715, CUSTOM-HOUSE, NEW YORK CITY,
Friday, September 11, 1908—10.30 a. m.

The hearing was resumed before the special examiner, Hon. Franklin Ferriss, at the above time and place.

Present: On behalf of the petitioner, Mr. Frank B. Kellogg, Mr. Charles B. Morrison, Mr. J. Harwood Graves; on behalf of the defendents, Mr. Moritz Rosenthal, Mr. F. L. Crawford, Mr. Douglas Campbell, and Mr. W. Cleveland Runyon.

(It is agreed between counsel that the witness Collings shall not be obliged to appear here on Monday, September 14, 1908, in response to subpœna, but instead shall appear on Friday, September 18, 1908, at 10.30 o'clock a. m.; this adjournment not to be a waiver of any rights that the Government has to require the appearance of said Collings or a waiver of any rights that the defendants may have with reference to quashing said subpœna.)

L. J. DRAKE, recalled, and his cross-examination resumed, as follows:

By Mr. KELLOGG:

Q. Mr. Drake, I show you a letter which appears in the record in this case, in the testimony of Mr. Wilhoit, which purports to have been read into the record, from Mr. E. P. Pratt, manager, to agent Standard Oil Company, Topeka, Kansas, dated December 28, 1895, in

8694 which appears the following statement: "I would like to secure a sample of the oil received by the National Oil Company at your station and pumped into their storage tank. My records show that on December 4 they received N. O. Company tank 1412, containing 122 barrels of refined oil. I do not find that they

have received any oil in bulk before or since that time. Therefore it is reasonable to presume that the oil which they have in bulk at Topeka is from this car, and has not been mixed with any other oil. If you can get one-half gallon of the oil and are positive that it has been taken from the storage tank, send the sample, express charges prepaid, to Mr. C. M. Pratt, 26 Broadway, New York, N. Y. Please see that the package is plainly tagged as follows: 'Sample of oil from N. O. tank car 1412, received at Topeka, Kansas, December 4, 1895.' To assist you to get this sample, which has got to be procured immediately, possibly the inspector can help you. If you can not get one-half gallon, get as large a sample as you can. I will write to Mr. Kelly, asking his cooperation, if you promptly advise me that you require his assistance. We must be positively certain that this sample was taken from the storage tank. If they receive another tank car of this kind, please see if you can not get me a sample from the car instead of waiting until it is pumped into the storage tank. I know it is very hard to do a thing of this kind, but if you succeed your services will be all the more appreciated," etc. Now, did I understand you to say that that was never done in your territory?—A. What he states there?

Q. Yes.—A. Not to my knowledge.

Q. And that it could not be done?—A. It could not be——

8695 Mr. ROSENTHAL. No, he did not say it could not be done. He said it was not necessary, that you could go to a hundred grocery stores and get it.

Q. Now, you say this was not done to your knowledge. Mr. Pratt was the manager who preceded Mr. Mayer, was he not?—A. He was there previous to Mr. Mayer, yes.

Q. And previous to that time he represented your company at other places?—A. Yes, sir.

Q. In Iowa?—A. Yes, sir.

Q. Was he general agent in Iowa?—A. He was manager at one time at Des Moines, Iowa.

Q. For how many years was he in the employ of the Standard Oil Company previous to the date of this letter, 1895?—A. I could not tell you how many years.

Q. At this time, in 1895, how large a territory did he have jurisdiction over?—A. He had a part of Kansas—not all—and some in Missouri.

Q. Did he have all of the territory in Missouri covered by the Standard Oil of Indiana?—A. No, sir.

Q. Part of it?—A. Part of it.

Q. In Iowa, how much territory did he have?—A. At the time he was there, he had the territory covered by our main station at Des Moines, which covers the central portion of Iowa.

Q. Now, who was Mr. C. M. Pratt, of 26 Broadway, New York?—A. Mr. Pratt is a representative of the company in New York.

Q. One of the directors?—A. I think he is.

Q. What was his position at that time? Did he have charge
8696 of the selling companies?—A. I think Mr. Pratt was connected with the Standard Oil Company—or the Consolidated Tank Line Company—at Cincinnati, at that time.

Q. He lived in New York?—A. He lived in New York.

Q. Is Mr. E. P. Pratt related to C. M. Pratt?—A. Not to my knowledge; no, sir.

Q. When did he sever his connection with your company?—A. Somewhere in 1895—somewhere along there I think.

Q. And has not since been working for your company?—A. No, sir.

Q. You never heard of this transaction at all?—A. No, sir.

Q. Well, it was not necessary that Mr. Pratt should inform you of it, was it?—A. No, sir.

Q. In his line of business he had authority to do these things, had he not?—A. He had authority to get those samples if he wanted to, because it was not necessary for me to know about it.

Q. What would you want a sample of your competitor's oil for?—A. We might want to see what kind of oil it was, what grade of oil it was.

Q. What would you use it for?—A. Nothing only to see what kind of oil it was.

Q. Simply a little idle curiosity?—A. Just a little curiosity.

Q. Just merely curiosity?—A. Just curiosity.

Q. You would not use that information for anything?—A. Not necessarily.

Q. Would not your agents use it, if you found the oil to be
8697 a low grade? Would they not use that information around among the trade?—A. They do not generally do such things; no, sir.

Q. Simply he went to all this bother, if he did it, merely to gratify the curiosity of himself and Mr. C. M. Pratt?—A. I suppose they wanted to find out just what kind of oil it was.

Q. Did you ever receive any instructions or inquiries from Mr. C. M. Pratt in relation to getting samples of competitors' oil?—A. No, sir.

Q. You never did?—A. I never did.

Q. Did you ever have samples of competitors' oil?—A. Did I ever have samples?

Q. Yes.—A. Yes, sir.

Q. How did you procure them?—A. Bought them from the retailers where they sold oil.

Q. Bought them?—A. Yes, sir.

Q. And had them tested?—A. Yes, sir.

Q. Did you do that often?—A. No, sir.

Q. Occasionally you did that?—A. Occasionally; yes, sir.

Q. Did you have any particular object in getting that information?—A. Only to see just what kind of oil the other people were selling.

Q. Now, Mr. Drake, do you know of any case where oil was procured from the car or the tank of a competitor?—A. I could not tell you of any such instance; no, sir; I do not recall any instance now.

Q. Were there cases under your jurisdiction?—A. I do not know of any—do not recall any.

8698 Q. Now, you say that you never paid any money for information about competitive shipments?—A. I say I never did.

Q. And never authorized it?—A. Never authorized it to my knowledge.

Q. You said if Mr. Pratt got any such information, or paid for it (I have forgotten exactly the language), it was on his own responsibility?—A. Yes, sir.

Q. He did not have any authority from you?—A. No, sir.

Q. Well, he had authority to get what information he could, didn't he? He did not have to ask you for authority, did he?—A. No, not necessarily to ask me for authority.

Q. He was expected to get the information about competitive shipments into his territory, was he not?—A. So far as he could, honorably.

Q. Did you instruct him that this must be done honorably?—A. I did, sir.

Q. Did you write him any letters to that effect?—A. Why, I presume I might have written him letters, that if he could get any information of competitive shipments——

Q. Now, when you got information about a shipment into your territory, of competitors' oil, what did you do with it?—A. We kept a record of it.

Q. And did you inform your local salesmen of the shipments?—A. Very often did.

Q. And the local agents?—A. Yes, sir.

Q. Now, that information would be in what form, as to the statement that came to you?—A. Simply notifying me that there had been shipments made to certain points in the territory,

8699 or in the field.

Q. For instance, your competitors had their refineries either in Ohio or Pennsylvania, hadn't they?—A. I think they did, some of them.

Q. Up until very recently all their refineries were in the East, were they not?—A. A majority of them; yes, sir.

Q. From whose office did you receive information that certain shipments had been made into your territory?—A. Mr. Bemis's office. The information that I got was from our offices in the field—main offices.

Q. I know, but you got information about shipments being made into your territory, didn't you?—A. Sometimes we got information.

Q. Would that come from the New York office?—A. Very often it did.

Q. Now, that information would give the destination of the oil, would it not?—A. Yes, sir.

Q. The place of shipment?—A. Yes, sir.

Q. Say western Pennsylvania?—A. Yes, sir.

Q. And the car number, the consignor, and the consignee?—A. Very often it would.

Q. Now, will you tell me how it is possible for the company to get that information in Pennsylvania and send it to you in, say, Indiana, or any of these States?—A. I don't know, sir.

Q. You don't know?—A. I don't know, sir.

Q. Could they get it except from the railroad offices where the bill of lading was made up?—A. I presume they could, but I don't know.

8700 Q. Well, how?—A. I don't know how they got it.

Q. Do you know of any way they could get it?—A. No, I never inquired, Mr. Kellogg.

Q. You know how goods are billed by railways?—A. Yes.

Q. Waybills?—A. Yes, sir.

Q. Waybilled in the office?—A. Yes, sir.

Q. The name of the consignor and the consignee?—A. Yes, sir.

Q. And the car number and weight, etc.?—A. Yes, sir.

Q. Destination?—A. Yes, sir.

Q. And place of shipment?—A. Yes, sir.

Q. Now, you have been shipping and superintending shipping for many years, haven't you?—A. Yes, sir.

Q. Don't you know that except the consignor, no one would have that information except the railroad officer or the railroad clerks?—A. I do not know any such thing.

Q. Who else would have it?—A. It is very easy to get that information.

Q. How?—A. From the cars, if they wanted to. The cars are all tagged.

Q. The less than carload lots, you said, are not tagged?—A. I don't know anything about that.

Q. You do not know anything about the less than carloads?—A. I am talking about carloads.

Q. Didn't you testify before the examiner that less than carload lots were not tagged?—A. Well, the barrels are tagged.

Q. The barrels are in the car, are they not?—A. Yes. They could see them in the car or on the platform, I presume; but the cars

8701 are tagged from the consignor to the consignee, the number of the car, and the car contents. It is very easy.

Q. Full carload lots?—A. Yes.

Q. But less than carloads are not tagged, are they?—A. The barrels are tagged.

Q. The barrels were inside the car, locked up, were they not?—A. The majority of these cars of less than carloads that you are talking about were shipped from the oil regions in carloads, and distributed in the West after they reached their destination. So it was very easy to get the consignee and the consignor and the desti-

nation of the car, very easy. Ninety-five percent of the business from the refineries, and I will say more than that, goes in carloads, not in less than carloads.

Q. Your competitors'?—A. Yes, sir; our competitors'.

Q. Ninety-five per cent of theirs does not go in carloads, does it?—A. I beg your pardon, but it does.

Q. It does?—A. It does. It goes to Missouri River points in carloads, and then is distributed from there.

Q. How do you know that their cars are tagged with the name of the consignor and the consignee?—A. Because I have seen them.

Q. Did you ever see one?—A. Oh, a great many of them, Mr. Kellogg, a great many of them.

Q. Then you would have to have a man watching around the stations to get you that information?—A. Not necessarily to do that.

Q. How could you get it in any other way?—A. We have men driving there every day, a dozen times a day. They could see what was going on there.

Q. They would have to watch the car shipments, would they
8702 not, out of that station?—A. They might watch the car shipments. They would see a carload of oil. They are pretty energetic, looking after shipments of oil.

Q. Now, you take Titusville——A. Well, Titusville.

Q. And Warren?—A. And Warren.

Q. Have you got men driving there every day to those stations?—A. Yes.

Q. What for?—A. Delivering oil.

Q. You ship most of yours in tank cars, don't you?—A. Yes; but they are delivering lubricating oil in barrels, delivering axle grease in cases. They are delivering all sorts of specialty goods and going to those stations a great many times a day.

Q. Has your company a lubricating oil station at Titusville?—A. I am not familiar with Titusville.

Q. Has your company a place of business there at all?—A. We do business there; yes.

Q. Have you got one at Warren, Pennsylvania?—A. Yes.

Q. At Bradford, Pennsylvania?—A. Yes; we do business there, at most of those places.

Q. Refineries, you mean?—A. No; we have no refineries at Warren.

Q. Certainly not.—A. No; but we do business there. You asked me if we did business there, and I said "Yes; we do."

Q. You do business there from your tank stations, do you?—A. Yes, sir.

Q. You do not ship your oil from the depot in tank wagons?—A. No.

8703 Q. And your man would not have any business at the depot at all, would he?—A. Yes, sir; he would.

Q. What?—A. Because he delivers lubricating oil, cased oil, and stoves and lamps, and all sorts of things.

Q. Then he is expected, is he, to watch the shipments of your competitors?—A. If he can get any information there, why, he is supposed to get it.

Q. You instruct all your agents to keep constant tab on the shipments of your competitors, do you not?—A. So far as they could, and do it honorably.

Q. To get the oil they shipped, and to whom they shipped it, and the amount, and their customers, and everything?—A. Yes, sir.

Q. Every one of them?—A. Not every one—the best we could.

Q. Now, what use would you have of information sent to you from Titusville of a competitive shipment?—A. I never had any information come to me from Titusville.

Q. Well, any of these other places, then?—A. I never had any.

Mr. ROSENTHAL. Let us have the specific instance.

Q. You said that you frequently got information from the New York offices?—A. Yes, sir.

Q. Of shipments made from competitors, say in western Pennsylvania?—A. Yes.

Q. Into your territory?—A. Yes.

Q. That is correct, is it?—A. That is correct.

Q. Now, what use would you have for that information?—A. I would notify the man in our field that the competitors were shipping stuff into his field; would it not be best for him to get after
8704 the business a little sharper and see if we could not hold a little better and larger percentage of the business. It is a business proposition.

Q. And he would be notified frequently before the shipment got there from Pennsylvania?—A. Well, seldom, if ever, before it would get there.

Q. Occasionally?—A. It might possibly; yes, I should hope so.

Q. And he was expected to get after that trade, and see if he could stop it?—A. Get after that trade and see if he could not sell the people the oil, and get the business ourselves direct. We are in the oil business.

Q. Get the orders countermanded?—A. No; we did not countermand any orders.

Q. You did not?—A. No; I did not.

Q. Did your agents?—A. Not to my knowledge—they never were instructed to.

Q. They were instructed to get the business, however?—A. They were instructed to get the business the best way we could, and do it honorably.

Q. Now you were expected to report all shipments made from place to place in your territory, were you?—A. Report the sales?

Q. Yes.—A. We report the sales of our goods; yes, every day.

Q. No; I mean of your competitors.—A. Report them?

Q. Yes.—A. They report to the office. We keep a record of it in our office; yes.

Q. And then you furnish that to the New York office?—A. We very often did; yes, sir.

8705 Q. It was customary to do that right along, was it not?—A. Customary to do it right along; yes; all the information we can get.

Q. Now you frequently notified your local agents to keep a sharp lookout and get the information about competitors' shipments, didn't you?—A. Yes, sir; I did.

Q. They were drummed up to do that constantly, were they not?—A. We wrote them letters very often to look out for business coming in and to secure the business themselves.

Q. Now you said that your company bought the Sutton Brothers and the Excelsior Oil Company?—A. Yes, sir.

Q. At Topeka, Kansas?—A. The Excelsior was at Topeka.

Q. Who owned the Excelsior?—A. It was owned by some party in Cleveland, I do not recall now just who the owner was.

Q. Had it been doing business there for a number of years?—A. Had been doing business there for three or four years, I think.

Q. Selling oil in competition with yours?—A. Yes, sir.

Q. And was it a peddling concern or a wholesale?—A. It was wholesale, largely.

Q. Wholesale?—A. Wholesale, largely; yes, sir.

Q. And you bought it about what time?—A. I can not recollect the date now, just when we did buy it. I do not recollect it.

Q. How long did you continue to operate it?—A. The Excelsior?

Q. Yes.—A. We did not operate it at all.

Q. You never operated it?—A. No, sir.

Q. You liquidated it?—A. Took the——

Q. Now the Sutton Brothers were a wholesale concern in

8706 Kansas City?—A. Wholesale and retail—retail principally.

Q. In the oil business?—A. Yes, sir.

Q. In Kansas City?—A. Yes, sir.

Q. You bought them out?—A. Yes, sir.

Q. How long did you operate that concern?—A. About a year I think, as nearly as I can recollect.

Q. You operated it as the Sutton Bros.?—A. We operated it as the Sutton Bros.

Q. You did not advertise that you owned it?—A. We did not say anything about it.

Q. You bought the Scofield, Shurmer & Teagle concern?—A. That was bought out; yes, sir.

Q. They had stations at various places through your territory, did they not?—A. Yes.

Q. They were a large concern at Cleveland, were they not?—A. They were at one time refiners there, I believe.

Q. And they had substations at how many places in your territory—a good many?—A. Yes; quite a number.

Q. After you bought them out you turned their business over to the Republic Oil Company?—A. Yes.

Q. And that you ran as a so-called independent company?—A. Yes; we ran it as the Republic Oil Company.

Q. That was not advertised as a Standard concern?—A. No, sir; it was not advertised.

Q. That was a large concern, was it not?—A. They did quite a large business.

Q. And they did business all through your territory, wher-
8707 ever Scofield, Shurmer & Teagle did business?—A. Yes.

Q. You liquidated that concern about when?—A. It must have been liquidated about two years ago, I think, or somewhere along there.

Q. During the years you have been there, say, during the last ten years, how many independent peddlers, oil merchants, wholesalers, or concerns dealing in products of petroleum in competition with your concern have you bought out?—A. Very few.

Q. A great many, haven't you?—A. No, sir.

Q. Local peddlers?—A. No, sir.

Q. Well, you bought up quite a number?—A. Not a very large number; no, very small.

Q. Mr. Teagle had charge of the Republic Oil Company after it was started, didn't he?—A. Yes, sir.

Q. Did you know a letter written by Mr. Teagle to his agents in which he told them to deny that the Standard Oil had bought it out?—A. No, sir.

Q. Never heard of such a letter?—A. No, sir; never heard of it.

Q. You knew he testified to that fact, didn't you?—A. No, sir; I did not. I never saw his testimony.

Q. You never heard of that letter?—A. No, sir.

Q. He continued to manage it, did he?—A. Yes, sir.

Q. You testified, in reply to some testimony of Mr. Wilhoit, that the Standard Oil did not do business at Springfield, Missouri?—A. Not to my knowledge; no, sir.

Q. Did not Mr. Wilhoit testify that it did not, but that the Waters-Pierce did?—A. I don't know. I have never read his
8708 testimony. I don't know what he did testify to.

Q. Well, the Waters-Pierce Company did, did it not?—A. They do business there, I think; yes, sir.

Q. Now, you have said something about rebates—special rebates to the trade. Was that customary in your territory?—A. No, sir.

Q. It was not?—A. It was not customary; no, sir.

Q. Well, you gave discounts off from your regular price to certain merchants?—A. To jobbers; yes, sir; wholesale grocers and jobbers, we did.

Q. And retail grocers?—A. Very few retail grocers, that I know of, had any rebates, as you call them.

Q. At the end of the month they would send in their tickets, would they?—A. I never had any cases of that kind; no instances of that kind, to my knowledge.

Q. You never did?—A. I never did any of that business.

Q. Would they not send in their tickets and get their rebates?—A. They never did to me.

Q. Or send in their bill for it, or how did they do it?—A. They never did to me.

Q. They would not send it to you, anyway?—A. No.

Q. They would send it to some local agent?—A. I never made any such arrangement.

Q. Your local agents would have charge of that, would they not?—A. They would, if they did it; yes, sir.

Q. And you know that they gave certain concessions to certain merchants?—A. To jobbers; yes, sir; but that was not
8709 done by rebates, that I know of, or tickets, or anything of that kind.

Q. Not to jobbers alone, was it? Retailers also got it?—A. Very few retailers got it.

Q. Some did in some places?—A. I do not know of any rebates or tickets that you talk about. I don't know anything about that. I never made any such arrangements, and never had the matter brought to me.

Q. You did not make the arrangements with the purchasers, did you, yourself?—A. Not all of them; no.

Q. You did not make any of them, did you?—A. Oh, I have made arrangements to sell to jobbers, lots of them.

Q. Mighty few of them—that was mostly done by your traveling men, was it not?—A. No, sir; not all of it.

Q. Or by your local agents?—A. Or by the managers.

Q. Mostly done by the men under you, was it not?—A. Mostly done by the managers under me; yes, sir.

Q. You did not pretend to get around over those six or seven States and sell the stuff directly to the consumers, did you?—A. Not to the consumers.

Q. Or to jobbers, did you?—A. I did, for ten years, and saw them once a month; all the jobbers; yes, sir.

Q. For ten years you saw all the jobbers and retail dealers in your district?—A. No; I did not say retail dealers. I said jobbers.

Q. All the jobbers—every one of them?—A. A majority of them; nearly all of them.

8710 Q. Every year, for ten years?—A. For ten years. That was before there were any stations there, that was when the business was handled in barrels.

Q. You did not see the retailers?—A. I did not go to the retailers. That was no part of my business.

Q. So you do not know what arrangements your agents made with the retailers?—A. Well, I might know some arrangement, if they had any.

Q. You do not pretend to say you did not cut the prices a great many times in your territory?—A. I did not pretend to say anything of the kind, for we did. When they cut our business we went after it and got it if we could.

Q. You went after them and cut theirs?—A. We went after the business and got it, in a straight, legitimate manner, every place we could.

Mr. ROSENTHAL. You do not answer his question. He asked you if you went after their business by cutting their prices.

WITNESS. No, sir.

Q. You never cut anybody's prices?—A. We followed their prices down; yes, sir.

Q. Never made a cut?—A. Oh, yes, we did make a cut.

Q. Below anybody else's price?—A. No, we did not make a cut below anybody else's price that I know of.

Q. Do you swear that never in your territory did any of your agents cut the price below what your competitor was selling for?—A. I do not make any such oath at all.

Q. Very well.—A. No, sir.

8711 Q. I wanted to find out whether you would or not.—A. It is not necessary.

Q. Now, they did make special prices to particular dealers, did they not?—A. Some of them did; yes, sir.

Q. And some of those were retail merchants?—A. Possibly they were.

Mr. KELLOGG. That is all.

Redirect examination by Mr. ROSENTHAL:

Q. What was your policy with respect to cutting prices below competitors' prices in your territory, Mr. Drake?—A. Cutting prices below?

Q. Yes.—A. We very seldom ever did that unless we had strong competition and were forced to do it, after they had cut our prices.

Q. Did you ever initiate a cut as against a competitor?—A. No, sir, I never did.

Q. What was your policy with respect to following a competitor's cuts?—A. After we had found that it was a fact that they were cutting prices and were taking our business, we went in and made our price, to take the business, the best we could.

Q. Is it not true that in all the years you have been connected with the company your experience and observation have been that cuts are initiated by the competitor?—A. Yes, sir.

Q. To begin with, you start out by having the business, do you not?—A. Yes, sir.

Q. And it is the competitor that is coming into a field, that

8712 is a new field for him and an old field for you, and is trying to get your business away from you?—A. That is true.

Q. And have your experience and observation taught you that the only way that he does that is by cutting your price?—A. In almost every instance.

Mr. ROSENTHAL. That is all.

Recross-examination by Mr. KELLOGG:

Q. You say you were in the field first and had the business?—A. In a great many places; yes, sir.

Q. But you had not at all places, had you?—A. In what way?

Mr. ROSENTHAL. I doubt whether there is a place can be selected where they did not have.

Q. Don't you know that Scofield, Shurmer & Teagle were a very old concern?—A. Yes, sir.

Q. Had been doing business longer than your company had?—A. I think they were in business before the Standard was.

Q. Yes, and they had business scattered all through your western territory.

Mr. ROSENTHAL. I do not think they were in business before the Standard.

WITNESS. I don't know.

Mr. KELLOGG. They were in business long before the Standard Oil Company of Indiana was organized.

A. What?

Q. Before the Standard Oil Company of Indiana was organized.—A. Oh, before the Standard Oil Company of Indiana; yes, sir.

Q. Years before?—A. Yes, sir.

8713 Q. One of the older refineries in Cleveland, were they not?—A. I think so.

Q. And had business scattered all over that western country?—A. They had a large business down there.

Q. Now you had very bitter competition with them, hadn't you?—A. Yes, sir.

Q. And you cut their prices, didn't you?—A. Not very often, no.

Q. Well, you did some times?—A. Not very often, no.

Q. But you did some times?—A. If it was necessary, I presume I would.

Q. Yes.—A. Yes, sir.

Q. And when they could not stand it any longer you bought them out?—A. Well, I don't know about that.

Q. You bought them out, didn't you?—A. Yes, sir; we bought them out, I believe.

Q. And then you ran it as a secret concern?—A. We ran it as the Republic Oil Company.

Q. And you did not advertise it as your own business?—A. No, sir.

Q. Now, is it not a fact that when you are talking about the Standard Oil Company being in there first, that many of these concerns that the Standard Oil bought out were doing business long before your company?—A. That might be.

Mr. ROSENTHAL. Before which company?

Mr. KELLOGG. The Standard Oil Company.

WITNESS. The Standard Oil of Indiana.

8714 Mr. ROSENTHAL. The Standard Oil of Indiana was not organized until 1889. The Standard Oil Company of Ohio was doing business in that territory since 1870, and its predecessor, Rockefeller, Andrews & Flagler from 1867, so your questions are misleading in that regard.

Q. But the Standard Oil Company of Ohio never sold any oil from tank wagons in your territory, did they?—A. Not that I know of.

Q. Do you know that they ever sold any oil in that territory at all?—A. The Standard Oil Company of Ohio?

Q. Yes.—A. Yes.

Q. When?—A. It is a good while ago; I could not tell you just when.

Q. At that time there were many other concerns selling there too, were there not?—A. There were not very many refineries at that time; no.

Q. Quite a number?—A. There were a few; not very many.

Q. Well, there were quite a number?—A. I don't know what you would call quite a number. There may have been three or four—not very many.

Q. What do you mean when you say that your company was in first and had the business?—A. I mean to say just what I said—that we were in those different points and States and towns there before anybody else was there, and had the business.

Q. When did your company go into St. Louis and northern Missouri?—A. I don't recall when we went in there.

Q. Well, About.—A. I could not tell you just when they went in there.

Mr. KELLOGG. That is all.

8715 Mr. ROSENTHAL. That is all.

8716 BRUCE ROBINSON, called as a witness on behalf of defendants, being duly sworn, testified as follows:

Direct examination by Mr. ROSENTHAL:

Q. What is your full name?—A. Bruce Robinson.

Q. Where do you live?—A. 909 North Fulton avenue, Baltimore, Maryland.

Q. What is your business?—A. Superintendent of tank-wagon stations, Camden and Fulton stations, Baltimore.

Q. When were you first employed in the oil business?—A. I was employed in the summer of 1902, I think it was.

Q. Where?—A. I was employed by Mr. Bender—Dixie Oil Works.

Q. Who was Mr. Bender?—A. He was the Dixie Oil Works.

Q. Where were they located?—A. Baltimore.

Q. In what capacity were you employed by him?—A. As manager of the Home Safety Oil Delivery at Norfolk, Virginia.

Q. What were your duties as manager of the Home Safety at Norfolk?—A. Soliciting trade, and managing the business at that point.

Q. What was the Home Safety at Norfolk—was that an oil company?—A. That was a retail oil dealer, a peddling company.

Q. A peddling company?—A. Yes, sir.

Q. Selling to whom?—A. Selling to the consumers.

Q. Did you have a plant at Norfolk?—A. When I first went there we had a stable and two old wagons, and some 5-gallon cans;

and about two months afterward we had a plant at Church
8717 street and the Norfolk & Western Railway.

Q. When you first went to Norfolk, in charge of the Home Safety, where were they doing business?—A. When I first went there?

Q. Yes.—A. I don't remember the street.

Q. I mean in what sort of an establishment.—A. Why, it was simply an old stable.

Q. Did you have any fixtures?—A. No, sir; none whatever, except 5-gallon cans and two old wagons, and old horses.

Q. Two old delivery wagons?—A. Yes, sir; ordinary wagons.

Q. Did you later establish a plant there?—A. Yes, sir.

Q. Where?—A. At Church street and the Norfolk & Western Railroad.

Q. And what did that plant consist of that you established?—A. That consisted of two large storage tanks, a stable, a warehouse building, one-gallon cans, and horses and wagons.

Q. A fully equipped establishment?—A. A fully equipped establishment; yes, sir.

Q. Who sent you to Norfolk?—A. Mr. Bender.

Q. The manager of the——A. Of the Dixie Oil Works.

Q. And you found this Home Safety equipment there when you got there as you have described it?—A. Yes, sir; the old equipment.

Q. Who had been running it just before that?—A. I don't remember the man's name.

Q. What goods did you handle?—A. Kerosene oil and gasoline.

Q. And how was that stored?—A. In storage tanks.

8718 Q. Where?—A. Well, at first it was not stored at all. I made deliveries daily; but after it was stored in these tanks and we had a plant fully equipped, it was stored in the storage tanks that I had.

Q. And then you would fill your cans and your tank wagons from the storage tanks, would you?—A. I would fill my cans. I had no tank wagons.

Q. You had no tank wagons at all?—A. No, sir.

Q. How long were you in charge of the Home Safety at Norfolk?—A. Why, about six months, until about February, 1903.

Q. That is, from about July, 1902, to January or February, 1903?—A. Yes, sir.

Q. Now, this kerosene oil and gasoline which you delivered at that point, as I understand you, was delivered in one and five gallon cans?—A. Yes, sir.

Q. Was there any special feature about these cans?—A. The 1-gallon can was a patented one, nonfillable and nonspillable. The 5-gallon cans were the ordinary 5-gallon tin cans.

Q. Did you buy the premises on which your plant was established?—A. No, sir; it was leased.

Q. Did you attend to that?—A. Yes, sir.

Q. And you did business under a city license, did you—was that a requisite?—A. The only licenses I had anything to do with were the wagon licenses. The taxes were paid by the Lafayette Field Association.

Q. Was that your lessor?—A. Yes, sir; I think that was the name. It has been five years since I was down there. I think
8719 it is the Lafayette Field.

Q. How were your wagons painted? What signs, if any, did you have on them?—A. On the new equipment I had signboards on the wagons displaying the price of oil and gasoline.

Q. Were they large signs?—A. Yes, sir.

Q. Well displayed?—A. Well displayed.

Mr. MORRISON. What did you say the signs were?

WITNESS. Well displayed, large signs.

Mr. MORRISON. Well, what was on the sign?

The stenographer read the previous answer of the witness as follows: "On the new equipment I had signboards on the wagons displaying the price of oil and gasoline."

Q. How long was it after you went there that you put in your new equipment?—A. About two months.

Q. Who was your principal competitor there?—A. The National Oil Company, retail grocers, and several other peddlers.

Q. What was the National Oil Company? Do you know where its home office was?—A. No, sir.

Q. Was it not at Baltimore?—A. I don't know, sir.

Q. Do you know a man by the name of Finlayson?—A. No, sir. I know who he is, but I never met him. I would not know him if I saw him.

Q. Was he connected with the National Oil Company?—A. I believe so.

Q. He was manager, was he not?—A. I could hardly say what he was. I knew he was connected with the National Oil Company.
8720 Q. These peddlers that were in the business there, where do they buy their oil?—A. I don't know, sir.

Q. Where did you get your oil and gasoline?—A. From the Standard Oil Company.

Q. Did the Standard Oil Company have a tank station there?—A. Yes, sir.

Q. Did you go to their tank station to get your oil?—A. No, sir; it was delivered to me by tank wagon.

Q. Where?—A. At the plant.

Q. At your plant?—A. Yes, sir.

Q. By the tank wagons of the Standard Oil Company?—A. Yes, sir.

Q. Publicly and openly delivered to you?—A. Oh, yes; of course.

Q. Do you recall the price of gasoline and kerosene sold to the consuming trade by you and your competitors when you first took charge of the Home Safety at Norfolk?—A. No, sir; I can not recall the actual price.

Q. What was the relative price charged by you?—A. The price charged by me was the current consuming price, the same as charged by other peddlers and retail grocery stores.

Q. How did it compare with the price charged by the National?—A. It was practically the same price.

Q. Well, while you do not remember the exact price then, as I understand you, you do remember clearly that your price was the same price as that charged by the National and these other peddling
8721 concerns to the retail grocers?—A. Yes, sir; it was the current price, the ordinary price, the retail price.

Q. What was your daily gallonage there?—A. When I first went to Norfolk the gallonage was about 75 gallons a day.

Q. Of what? Kerosene?—A. Of both oil and gasoline.

Q. You mean the total?—A. The total, yes.

Q. The total of oil and gasoline was only 75 gallons a day?—A. Per wagon—about.

Q. What?—A. About that amount.

Q. You mean for each of those wagons, or for both of them?—A. For each wagon.

Q. How about price cutting there by your competitors? Was there any?—A. Yes, sir.

Q. How do you know that?—A. Well, I lost business through the competitors cutting the price.

Q. Did your gallonage increase from 75 gallons a day for each of those wagons?—A. Yes, sir.

Q. When, and how much?—A. Why, it increased right along. When I got my new equipment, I had, as I remember it, about 150 gallons a day for each wagon.

8722 Q. And when you left, how many wagons did you have on?—A. I had three wagons of the new type and two of the old wagons. The old wagons were used to help out and scout around.

Q. What do you say your total gallonage was when you left?—A. About 250 gallons per wagon.

Q. You say that these other peddlers and the National cut the current prices. What did you do with respect to meeting those prices?—A. I did not do anything so far as meeting the prices; could not.

Q. Why not?—A. I had no instructions.

Q. Well, do I understand that you had your prices displayed publicly on your wagon?—A. Yes, sir.

Q. And did you ever depart from the prices that were thus publicly displayed on your wagons?—A. Never.

Q. Ever cut those prices any?—A. Never.

Q. So whatever your price was, it appeared upon that sign in that way?—A. Those prices were maintained absolutely.

8723 Q. Were there any cases, Mr. Robinson, that you now recall, of any of your competitors cutting prices, either by giving away oil, by giving a rebate, or charging for a less amount of oil

than was actually delivered, or in any other way lowering the open market price?—A. I can remember of several instances of the National Oil Company cutting prices, which they very frequently did to the larger consuming trade. They cut the price to a man that had a fruit store on the corner of Church and Main streets. I had the business, and they cut the price; I think in that case it was a cent a gallon, and they got the business away from me. And there was also another instance, on Commercial Place, near the ferry wharf, where they cut the price and took the business from me. That was a pretty large buyer. The man had a lot of torches and things of that kind; had a big fruit stand.

Q. He used a great deal of gasoline?—A. He used a great deal of gasoline. And then there was a dyer and cleaner on Granby street, near Charlotte—the prices were cut there; and also a restaurant on Church street, near the car barn, a man by the name of Culpapper—the price was cut there. He used a great deal of gasoline.

Q. The price was cut by whom?—A. The National Oil Company in all these cases.

Q. And when the National cut the prices in those specific instances that you have named, what did you do?—A. Why, I did the
8724 best I could under the circumstances to regain the trade. I talked about our one-gallon cans, being unspillable, and the convenience of it, and the promptness and sureness of our delivery, and assured them most positively that we would take care of them in any case in getting stuff to them; and also did what I could to get in the good graces of those people by buying stuff from them, eating at the restaurant, and taking my clothes to the tailor to fix them up, and things of that kind. I couldn't cut any prices; I had to do the best I could to line them up by other methods.

Q. Why couldn't you cut the prices to get their business?—A. I wasn't given any instructions to do so. I was told to maintain the prices that were given to me on the wagons.

Q. You had no authority to cut prices?—A. I had no authority whatever to cut any prices.

Q. Did you get those customers back?—A. I know I got the restaurant back, and I think I got the one on Church and Main streets back, and the tailor, but I am not sure about the one on Commercial place.

Q. Do you know of any cases where this National Oil Company delivered less oil to their customers than they charged the customer for?—A. Yes, sir.

Q. Do you remember about how many wagons the National had out at that place?—A. I think they had three retail wagons.

Q. Did you ever take away any of their drivers or their wagons?—A. No, sir.

Q. Did you ever attempt to do that?—A. No, sir.

Q. To employ them away from the National by any means
8725 whatever?—A. No, sir.

Q. How did the National deliver their oil?—A. They had small tank wagons and delivered it to the consumer's can, as a rule.

Q. That is, delivered it to the consumers' own cans?—A. As a rule.

Q. The consumers having usually one-gallon cans?—A. One or three or five, as the case might be.

Q. Did these cans, with which the National delivered, have any of the patents that your can had?—A. No, sir.

Q. Assuring the customer of full measure or of its not spilling the oil after delivery?—A. Their can, you say?

Q. Yes.—A. No; their can was the ordinary oil can.

Q. And the storekeepers delivered to their customers, how?—A. In the consumers' cans.

Q. Did this patent can of yours—patent, unspillable, certain-measure can—cut any figure in that business?—A. Yes, sir.

Q. How?—A. It helped me a great deal to get business, owing to the fact that the can was unspillable and was light, and the customers would not have to use a funnel to fill lamps and stoves. It was a very much better package in all respects than they had in use, and a very attractive package to people that used oil.

Q. A safer can and a better can to use?—A. A safer can and a better can.

8726 Q. Is there any advantage in the handling of a one-gallon can?—A. Yes.

Q. As compared with a larger one?—A. Yes. Much less labor in lifting the can.

Q. How much does a one-gallon can weigh when filled?—A. About 7 pounds.

Q. And a three-gallon can?—A. About 21.

Q. And so on up, the five-gallon can weighing about 35 pounds?—A. About that, sir.

Q. So, as I understand you, these one-gallon patented cans that the Standard and the Home Safety used had an advantage over the other cans in that when they were used it prevented waste and they were easier handled?—A. Yes, sir.

Q. And they avoided danger in filling?—A. Yes, sir.

Q. There being no necessity to use a funnel?—A. No necessity at all.

Q. I asked you a while ago if you knew a man by the name of Finlayson, who testified in this case as a witness on behalf of the Government, at Washington. Referring to the situation at Norfolk that was created by the coming in of the Home Safety Delivery, he said that the Home Safety put in an army of solicitors at Norfolk. Now, how big an army did you march into Norfolk at that time?—A. I had four or five at one time, I think.

Q. Did that constitute the whole army?—A. That was the whole army.

Q. Where was this army of solicitors employed to do their work?—A. In the city of Norfolk and vicinity.

8727 Q. How big a city was Norfolk?—A. I really don't know the population.

Q. Oh, about. Pretty large sized Southern town?—A. A pretty large town.

Q. That is Norfolk, Virginia?—A. Norfolk, Virginia.

Q. About 80,000?—A. I was going to say about 50,000; about 50 or 75 thousand.

Q. When you came there you found the plant that you had acquired in a barn, consisting of a couple of old delivery wagons, as I understand you, delivering about 150 gallons of oil in total a day?—A. Not when I first went there.

Q. What?—A. About 75 when I first went there.

Q. For each of the wagons?—A. Yes.

Q. And after you got in there you employed four or five solicitors to help you get business?—A. Yes, sir.

Q. And is that the greatest number that you employed?—A. Yes, sir.

Q. Those four or five solicitors worked this town of 50 to 80 thousand and in the vicinity?—A. Yes, sir.

Q. For business for the Home Oil Company?—A. Yes, sir.

Q. And that is all you did in that regard?—A. Yes, sir.

Q. There was a witness by the name of C. H. Mahle, who testified for the Government, at Washington, to the effect that the Home Safety was used by the Standard Oil Company as a club over the other peddlers who were doing business there at Norfolk, so as to
8728 club these other peddlers into not leaving the Standard Oil Company, where these other peddlers purchased their goods from the Standard Oil Company. What do you say as to that?—A. It is not so.

Q. Did you ever, in any way of that kind, use the Home Safety in any such fashion?—A. No, sir.

Q. Did you ever make any special drive at any particular peddler who, if you please, had quit buying from the Standard Oil Company?—A. No, sir; I never made any special drive.

Q. Did you ever pay any more attention to his business under such circumstances than to the other business which you were doing?—A. No, sir; I never bothered about him, where he bought his oil.

Q. Did you ever concern yourself in any way with the relationship between any of these peddlers or storekeepers and the Standard Oil Company?—A. No, sir.

Q. Were you in a position, as a matter of fact, to know whether these peddlers or storekeepers were buying from the Standard Oil Company?—A. No, sir.

Q. You didn't know that?—A. I didn't know it; no, sir.

Q. As a matter of fact, just what was the Home Safety used for in Norfolk?—A. To sell oil wherever they could. Never turned down any business; went after it all the time, to increase our gallonage, to increase our sales.

Q. Mr. Bender was your superior officer?—A. Yes, sir.

Q. He is the man who employed you?—A. Yes, sir.

Q. He was the manager of the Dixie Oil Company at Baltimore?—A. Yes, sir.

Q. You were employed to go over to Norfolk and take
8729 charge of the Home Safety; is that right?—A. Yes, sir.

Q. Did you ever receive any instructions from Mr. Bender to confine your trade to peddlers, so as to prevent them from leaving the Standard Oil Company?—A. No, sir.

Q. Did you ever get an instruction that could possibly be interpreted in that way from Mr. Bender or anybody else?—A. I didn't quite understand the first part of your question.

Q. Did you ever get an instruction, from Mr. Bender or anybody else, that could possibly be interpreted in that way? I mean to say, so interpreted by you as to lead you to believe that it was your business to force these peddlers into line to buy from the Standard Oil Company?—A. No, sir; I never had any such instructions from anybody.

Q. Or any such instructions with respect to grocers and storekeepers?—A. No, sir.

Q. Was there ever a threat made by you or any one connected with you in the conduct of that business toward a peddler or a grocery store or a storekeeper that in the event they bought from independents the Home Safety would at once become aggressive in its attitude toward them in their particular district where they sold oil?—A. No, sir.

Q. Did you ever threaten a grocer that if he bought from an independent you would go into the immediate district of that grocer and cut him out?—A. No, sir.

Q. As Mahle has testified in this case?—A. I never did, sir.

Q. Did you know specifically from whom the grocers at Nor-
8730 folk were buying their oil?—A. No, sir; only in a general way.

Q. What do you mean by that?—A. I mean by that, if I were walking down the street and I would see a Standard Oil Company delivery wagon delivering oil to a grocery store I would presume that that store was buying regularly from the Standard Oil Company, and in the same way if I would see the National Oil Company delivery wagon delivering at another grocery store. That is the only way I knew anything about it, and I didn't take any note or didn't care anything about that end of it.

Q. You increased the business of the Home Safety at Norfolk, as I understand you; is that right?—A. Yes, sir.

Q. And by what means and to what do you attribute that?—A. By the use of the patented one-gallon cans, and by good service and good business methods and attending to everything, to the wants of the customers promptly.

Q. When did you leave Norfolk, Mr. Robinson?—A. I left in January or February, 1903.

Q. Where did you go?—A. Dixie Oil Works, Baltimore.

Q. And you were in Baltimore then for about how long—a month or more?—A. A month or more; yes.

Q. Where did you then go?—A. I then went to Durham, North Carolina.

Q. In what capacity?—A. I was there as agent of the Dixie Oil Works.

Q. Durham, North Carolina?—A. At Durham, North Carolina.

Q. What plant did the Dixie have at Durham?—A. They
8731 rented an old warehouse for the storage of oil in barrels, a small one-horse tank wagon, one horse, and the necessary equipment for a tank-wagon business.

Q. Did you initiate the business of the Dixie at Durham?—A. Not quite. There were some few customers, one or two, that were buying from the Dixie Oil Works in barrels before I went there.

Q. When you got there you found that the total equipment of the Dixie at Durham was this small one-horse——A. No, sir; I established that after I got there.

Q. Well, what did you find when you got there?—A. I didn't find anything.

Q. You didn't find anything?—A. No, sir.

Q. So you established a plant?—A. Yes, sir.

Q. And you established that by putting in a one-horse delivery wagon?—A. Yes, sir.

Q. And is that all you started with?—A. Yes; the wagon and the equipment necessary for the wagon. Then I had the oil in barrels and pumped the oil into this tank wagon. I had no storage tanks.

Q. The oil was pumped in from the barrels?—A. Yes, sir.

Q. Into your tank wagon?—A. Yes, sir.

Q. How much of a town was Durham?—A. Durham was a town of about 12,000.

Q. And how was the trade sold there—from tank wagons and by barrels, both?—A. Yes, sir.

Q. Were there any sales made to consumers at Durham at
8732 all?—A. No, sir.

Q. Under what name did you do business at Durham?—A. Dixie Oil Works.

Q. And where were the customers located?—A. In the city of Durham and the vicinity—the outskirts of Durham—all in the State of North Carolina.

Q. Who were your principal competitors, or all of your competitors, at Durham at the time you went there?—A. At Durham, the Standard Oil Company and the Red "C" Oil Company; that is all.

Q. How about prices there?—A. I don't remember the actual——

Q. How about your prices, I mean, as compared with the Standard and Red "C" Oil Company prices?—A. My price was the same as theirs.

Q. Did you always maintain their prices?—A. Always.

Q. And how long were you there?—A. I was there about six months, I think. Yes; about six months.

Q. Did you succeed in building up that business at all at Durham?—A. Yes, sir.

Q. To what extent?—A. I practically got all the barrel business that was in the town.

Q. You were at Durham about six months?—A. Yes, sir.

Q. Where did you go then?—A. I went to Baltimore—Standard Oil Company.

Q. In what capacity?—A. As tank-wagon superintendent.

8733 Q. What are your duties there?—A. Solicit the trade and superintend the plants generally.

Q. You solicit trade and have general supervision of the plants at Baltimore?—A. Yes; at Fulton and Camden streets.

Q. What part of the city of Baltimore do you cover?—A. The northwestern section and practically all the suburban territory.

Q. Known as the Fulton and Camden stations?—A. Yes, sir.

Q. And where is that—west of Charles and south and north of Lombard to Poppelton streets?—A. Yes, sir.

Q. And then Poppelton street to the B. & O. Railroad tracks?—A. Yes.

Q. Practically all of the suburban territory?—A. Practically all of the suburban territory.

Q. That is, the whole northwestern part of the city?—A. Yes, sir.

Q. What oils do you sell in that territory?—A. Kerosene oil and gasoline.

Q. How do you get the prices at which you sell kerosene and gasoline?—A. From the special agent of the Standard Oil Company, Baltimore.

Q. They are given to you by him?—A. Yes, sir.

Q. Who is the special agent of the Standard Oil Company at Baltimore?—A. Mr. John M. Walker.

Q. Do you or do you not adhere to the prices that you get from the special agent, or do you have any discretion in cutting those prices?—A. No, sir; I have no discretion whatever.

8734 Q. Then, as I understand you, you adhere absolutely to the prices given you by him?—A. Absolutely.

Q. And who were your principal competitors there, and who are now?—A. When I first went there?

Q. Yes, sir.—A. The Red "C" Oil Company, the Crew-Levick Oil Company, the Eagle Oil Company.

Q. The National?—A. The National didn't come in until later.

Q. About what time?—A. The National came in about a year and a half ago, or two years ago.

Q. The Southern Oil Company?—A. Well, the National just came in about six months ago, and the Southern Oil Company about a year and a half ago, but they are out of business at the present time.

Q. Do you know of any other cases, during the time that you had charge of the Fulton and Camden stations, of price cutting by your competitors?—A. Yes, sir.

Q. By their giving rebates, or giving away oil, or their making any sort of a concession whatever from the open market price?—A. Yes, sir.

Q. Can you give some specific instance?—A. Yes, sir.

Mr. MORRISON. Where is this—Baltimore?

Mr. ROSENTHAL. Yes; this is Baltimore.

Q. Please let me have them.—A. Do you want those dates?

Q. As nearly as you can give them. Take the Red "C" Oil Company first. Do you remember of any case, in July, 1905, in
8735 connection with the Motor Car Company?—A. Yes; the Red "C" Oil Company cut the price there half a cent a gallon, and secured the business, and they have held it ever since.

Q. What company was that?—A. The Red "C" Oil Company, Baltimore.

Q. And they cut the price to what company?—A. The Motor Car Company.

Q. Where are they located?—A. They were at that time at Park avenue and Biddle street.

Q. Baltimore?—A. Yes, sir.

Q. That is Fehsenfeld's company, isn't it?—A. Yes, sir.

Q. He was an important witness for the Government in this case?—A. Yes.

Q. And you say that cut was in July, 1905?—A. Yes, sir. I had the business, and they cut the price to get the business. They had it before I had it.

Q. What was that—gasoline or kerosene?—A. Gasoline.

Q. Do you remember of any other case of price-cutting on the part of the Red "C" Oil Company? Do you know a man by the name of J. Charles Raspe?—A. Yes, sir.

Q. Where does he live?—A. He lives at Riceburg, Maryland, just outside of the city of Baltimore. He was offered by the Red "C" Company half a cent a gallon off the open market price.

Q. Half a cent below the open market price?—A. Below the open market price.

8736 Q. When was that—about October 1, 1906?—A. Yes, sir; about that time.

Q. Do you know a man by the name of Pumpier at No. 6 South Penn street, Baltimore?—A. Yes, sir.

Q. Do you know of any price cutting or rebate in connection with his business as late of July, 1906?—A. Yes, sir.

Q. Tell us about that.—A. He was buying from us, and the Crew-Levick Oil Company offered him half a cent off the open market price to get his business, and they succeeded in getting it.

Q. Did you lose the business?—A. Lost the business.

Q. By reason of that cut?—A. Yes, sir.

Q. Did you meet the cut?—A. No, sir.

Q. Did you meet the cost in either of those instances that you have described?—A. No, sir.

Q. Now, take Sam Horwitz, on Argyle avenue. Was there any cut made in connection with his business by your competitor, in April, 1906?—A. Yes, sir.

Q. What about that cut? By whom was that made?—A. He had a cut—is that 1906?

Q. Yes, sir. From whom had he been buying—from you?—A. He had been buying from us.

Q. And where did he go to?—A. Then he bought from the Crew-Levick Oil Company on account of the cut price.

Q. The Crew-Levick Oil Company was one of your largest competitors there, was it not?—A. Yes, sir.

Q. And do you know a man by the name of Green, at 833 Raborg street, Baltimore?—A. Yes, sir.

8737 Q. Was he ever a customer of yours?—A. Yes, sir.

Q. Did he leave you?—A. Most altogether.

Q. From whom does he buy?—A. The National Oil Company.

Q. That is operated by Mr. Finlayson?—A. Mr. Finlayson.

Q. And was there any cut made there by Mr. Finlayson or the National Oil Company in order to get his business?—A. Half a cent per gallon.

Q. Half a cent per gallon off the open market price?—A. Yes. That is going on to-day.

Q. That is going on to-day, is it?—A. Yes, sir.

Q. And how about M. Grinsby, at 871 Raborg street?—A. The same case.

Q. What do you mean by "the same case?"—A. The National Oil Company cut the price in order to get the business.

Q. How about M. Berkow, 1020 Pennsylvania avenue?—A. Until recently he was buying most of his requirements from us, and some little from the Crew-Levick Company, and they offered him 5 gallons free with every 100 gallons of oil, and they secured his entire business by that method.

Q. That is 5 per cent of his purchases that they offered him?—A. Yes, sir. That is in effect now.

Mr. MORRISON. What company was that—Crew-Levick?

WITNESS. Yes, sir.

Q. Did you lose the business by reason of that cut?—A. Yes sir; lost all the business.

Q. As late as the spring of 1908 did the Red "C" Oil Company cut prices at Solley, Maryland?—A. Yes, sir.

8738 Q. Where is that—a suburb of Baltimore?—A. Yes, sir. It is Anne Arundel County.

Q. And how much did the Red "C" cut the prices there?—A. 1½ cents per gallon.

Q. Below the market price. That is just about the time that their representatives were testifying over in Washington?—A. Yes, sir.

Q. Take it on the Annapolis road leading out of Baltimore. Was there any cut in prices made there by the Red "C" Oil Company?—

A. Yes, sir. They cut the price there a cent and a half a gallon, about two years ago.

Q. Did they get the business by reason of that cut?—A. They got the business; yes, sir.

Q. Take Goldburg & Sirken, 1015 Pennsylvania avenue, Baltimore; in June, 1906, was there any cut made there?—A. Yes, sir.

Q. And by whom?—A. Crew-Levick Oil Company.

Q. Of how much?—A. Half a cent per gallon.

Mr. MORRISON. Where was that—in Baltimore?

Mr. ROSENTHAL. Yes.

Q. A. Seligman, 610 West Lombard street; had you been selling there?—A. Yes, sir.

Q. Did you lose the business?—A. Yes, sir.

Q. Why?—A. The National Oil Company cut the price half a cent a gallon.

Q. Robert Corbett, of Pikesville, Maryland; had you been selling him?—A. Yes, sir.

Q. Where is that—a suburb of Baltimore?—A. Yes, sir; about eight miles.

8739 Q. Did you lose his business?—A. For a while, yes; we lost all his business.

Q. Why?—A. The Red "C" Oil Company cut the price half a cent a gallon.

Q. Did the Red "C," or Crew-Levick & Company, or the National, make gifts to storekeepers, of any kind, in order to induce them to leave you, and get their business?—A. Well, in the shape of storage tanks, they would frequently hand them out.

Q. They would give them storage tanks?—A. Storage tanks.

Q. Those tanks were of what capacity?—A. 30, 60, and 110 gallons.

Q. Doesn't the Standard Oil Company give away storage tanks, too?—A. No, sir.

Cross-examination by Mr. MORRISON:

Q. When did you first go into the oil business?—A. In the summer of 1902.

Q. That is when you started in with the Home Safety?—A. Yes, sir.

Q. What business had you been in before that?—A. I was employed by several concerns—in the flour business and canned-goods business.

Q. Where—at Norfolk?—A. No, sir; Baltimore.

Q. Did you ever live in Norfolk before you went there to go into the oil business?—A. No, sir.

8740 Q. You were an entire stranger then in that city?—A. Yes, sir.

Q. How long had you been acquainted with Bender?—A. I don't know that I ever met him before I went with the——

Q. How did he happen to discover you?—A. A friend of mine told me that I might get a position there, and I applied for it.

Q. Who was it who told you that?—A. Mr. J. A. Robinson. No relation of mine.

Q. What is that?—A. I say he is no relation of mine. The same name.

Q. Was he engaged in the oil business?—A. No, sir.

Q. Where did you meet Bender first?—A. In his office at Dixie Oil Works, Baltimore.

Q. Where was the office of the Dixie Oil Works?—A. VanSant Building, Lexington street.

Q. It is not in the same building with the Standard Oil Company's offices, is it?—A. No, sir.

Q. Did Bender say he wanted to hire you?—A. I have forgotten the details.

Q. Did you go to him or did he go to you?—A. I went to him.

Q. You had had absolutely no experience in the oil business?—A. None whatever.

Q. Had never driven an oil wagon?—A. No, sir.

Q. Never had worked in a store where oil was handled?—A. No, sir.

Q. Never had bought or sold a gallon of oil in your life?—
8741 A. No, sir.

Q. And he hired you to go down there into a strange city, where you didn't know a soul and run a business for him?—A. Yes, sir.

Q. How much did he agree to pay you?—A. $65 a month.

Q. And your expenses?—A. No, sir.

Q. $65 a month to start with?—A. Yes, sir.

Q. Were you to get any certain amount of business in order to get that salary?—A. No, sir.

Q. Whatever you made there or whatever you lost cut no figure in your salary?—A. Yes, sir.

Q. And you went down there into Norfolk and you found certain equipment, did you?—A. Yes, sir.

Q. Who went with you to show you that equipment?—A. No one—I mean there was a man there in charge of that equipment that I met there in Norfolk.

Q. Did Bender send you to him?—A. Yes, sir.

Q. Who was he?—A. I don't remember his name.

Q. A stranger to you?—A. Yes, sir.

Q. And did Bender tell you where you would find him?—A. Oh, yes; I had his address.

Q. Would you know his name if you heard it?—A. I can't say.

Q. Was it Weinfeldt?—A. I don't think so.

Q. Do you know Weinfeldt?—A. No, sir.

Q. I understand you to say that you don't know Weinfeldt?—A. No, sir.

Q. Did you ever hear of him there?—A. No, sir.

8742 Q. Who was running the business before you took charge of it?—A. I don't remember the man's name.

Q. What reason did Bender give for sending you down there to take the place of this man?—A. I was under the impression that the man down there was a man who had been employed as a wagon driver and was simply sent there temporarily. That was my impression. He was simply a wagon driver before he went there, and he had some experience in that line of work, and he was sent there just temporarily. That is my impression.

Q. Well, you found him running the Home Safety Company when you got there?—A. What there was of it; yes, sir.

Q. Was he making deliveries to consumers?—A. Yes, sir.

Q. In the city of Norfolk?—A. Yes, sir.

Q. Did he go around and show you how to run the business?—A. Yes, sir.

Q. How long did he stay with you?—A. Maybe a week.

Q. Went around to the customers?—A. Yes, sir. Possibly two weeks.

Q. And gave you a list of customers?—A. Yes, sir.

Q. Did you learn from him how long he had been running the business there?—A. I don't remember.

Q. What is the Home Safety? Is it a corporation?—A. I don't know.

Q. Did you know whom Mr. Bender was working for when he employed you?—A. No, sir.

Q. Did you ever know that he was working in the interests of the Standard Oil Company?—A. Not while I was working.

8743 Q. When did you first learn that?—A. Oh, I was never told it; I more or less surmised it later on.

Q. You became thoroughly satisfied of it, didn't you?—A. I felt pretty sure of it.

Q. But he didn't apprise you of the fact when he employed you?—A. No, sir.

Q. Did he say who owned the Home Safety?—A. No, sir.

Q. Didn't you ask him whose business it was?—A. No, sir.

Q. Did he tell you that he had any interest in it?—A. No, sir; I don't remember.

Q. Wasn't there anything said about that?—A. Not that I know of; not that I can recall.

Q. Did he mention the Standard Oil Company's name in talking with you about engaging you to go into that business?—A. Not that I can recall.

Q. Didn't he tell you that the Standard was a competitor down there?—A. No, sir.

Q. You didn't know whom you were going to compete with?—A. No, sir.

Q. When did you first learn who your competitors were to be?—A. After I got to Norfolk.

Q. Did Mr. Bender tell you anything about the previous career of this Home Safety Oil Company?—A. What kind of career?

Q. Its previous career, what it had been doing.—A. No, sir.
8744 He might have given me a general talk about it, but I can't recall.

Q. What did he say?—A. I can't recall any of that at all.

Q. You don't remember a thing about it?—A. No, sir.

Q. In employing you to go there and do this work for him, didn't he tell you that it was his company, or didn't he tell you whose company it was?—A. I can't say positively the language he used.

Q. Well, did he give you to understand who owned the company?—A. I was under the impression that it was a part of the Dixie Oil Works, and I let it go at that. I was after a position.

Q. You supposed, then, it was part of the Dixie when you went down there?—A. Yes; naturally.

Q. Did Bender tell you where to get your oil?—A. Yes, sir.

Q. Where did he tell you to get it?—A. Standard Oil Company.

Q. Did you ask him any questions about that—why you should be buying your oil of a competitor?—A. Well, the Standard Oil Company was not a competitor in that sense of the word. They didn't have retail oil delivery.

Q. Was the Dixie Oil Works doing a wholesale business anywhere?—A. I think so.

Q. They had tanks, hadn't they?—A. Had tanks.

Q. Tank stations?—A. Not that I know of.

Q. Where did they get their oil?—A. I don't know.

Q. Did he give you any reason why you should get your oil of the Standard?—A. I don't remember.

8745 Q. Was the Dixie doing business at Norfolk at that time?—A. No, sir.

Q. Did he tell you how much to pay for oil?—A. I don't recall; I presume he did.

Q. How did you know how much to pay for oil day by day as you bought it of the Standard?—A. Well, I paid their price.

Q. You just went to their tanks and you paid their price?—A. Their tank wagons came to me and delivered to me, and I paid their price.

Q. At the start the tank wagons came to you?—A. Yes; always did.

Q. And after you built your equipment and your tanks, then they came and filled the tanks, did they?—A. Yes, sir.

Q. But at first they turned it into your cans, did they, or how?—A. Yes, sir; into 5-gallon cans.

Q. You found this outfit, as I understand you, in an old stable somewhere?—A. Yes, sir.

Q. Where was that?—A. It was off of Church street, in the center of the town, but I don't remember just where.

Q. Off from Church street, you say?—A. Yes.

Q. What do you mean by that?—A. I mean a square back from Church street, in an alley.

Q. What street was it on?—A. It was in an alley.

Q. Who owned this old barn there—did you know?—A. No, sir.

Q. Did you pay any rent for it?—A. I don't remember. I suppose I did. I was there only a short while.

8746 Q. How long were you there?—A. About two months.

Q. Altogether?—A. Yes.

Q. Now, who told you what price to sell your oil for?—A. Mr. Bender.

Q. Did he tell you when you started in to sell it for a certain price, or did he give you instructions about it from day to day?—A. Why, I don't remember, when I started in, whether he told me or whether the man that started me there told me.

Q. What were you paying the Standard for oil when you started in?—A. Paying the wholesale price.

Q. What was it?—A. I don't remember.

Q. Haven't you any idea what you were paying?—A. No, sir.

Q. What were you selling it for?—A. Selling it for the current consuming price.

Q. What was it?—A. I don't remember.

Q. Haven't you any idea about that?—A. It might have been 10, 11, or 12 cents a gallon.

Q. I am not asking you what it might have been. I am asking you whether you know at what price you were selling it to the consumers per gallon.—A. No, sir.

Q. You don't?—A. No, sir.

Q. What was the difference between what you paid to the Standard and what you sold it for to the consumer?—A. That varied. Sometimes 2 cents a gallon; most always 2 cents a gallon.

Q. About 2 cents a gallon was the difference?—A. Yes; that was the averaging difference.

8747 Q. And the price that you sold at was the prevailing price in Norfolk?—A. Yes, sir.

Q. So that the prevailing retail price there at that time to the consumer was about 2 cents a gallon above the wholesale price?—A. About that; yes, sir.

Q. Did you pay for this oil as you received it each day?—A. Yes, sir.

Q. Out of the receipts of that day?—A. Yes, sir.

Q. Did you make reports to anybody?—A. Yes, sir.

Q. To whom?—A. Mr. Bender.

Q. How often?—A. I think at first I made him weekly reports.

Q. Didn't you make daily reports of your gallonage?—A. No; I don't remember exactly how I did that. I know I made reports to him of my business right along.

Q. Didn't you do it personally?—A. I knew personally daily, yes; I knew what I was doing.

Q. Didn't you report daily to Mr. Bender?—A. I don't know that I did.

Q. And you don't know that you didn't?—A. No.

Q. In your reports you stated the number of gallons that you had bought and that you had sold and what your expenses were, didn't you?—A. About; yes, sir.

Q. How were you paid? Did you retain it from what you had on hand, or did they send you a draft or check?—A. They sent me a draft; yes, sir.

Q. Each month?—A. On the 1st and 15th.

Q. Did you report the customers that you got to Mr.

8748 Bender?—A. No, sir.

Q. Just reported the gallonage?—A. The gallonage; yes, sir.

Q. Was Bender down there during any of the time that you were at Norfolk?—A. Yes, sir.

Q. How often did he come down to see you?—A. Possibly once a month.

Q. Did he ever mention to you that he was connected with the Standard Oil Company?—A. No, sir.

Q. There were quite a number of oil dealers in Norfolk at that time, were they not?—A. You mean peddlers?

Q. Yes.—A. No; I don't think more than three.

Q. Who were they?—A. There was the National Oil Company, and there were two or three other small peddlers. I don't remember their names.

Q. What companies were they connected with?—A. I don't know.

Q. Of whom did they buy their oil?—A. I don't know.

Q. You never even found out that?—A. No.

Q. Did Bender know?—A. I don't know.

Q. How many peddlers' wagons were there on the streets besides the National and yours?—A. I think there were three or four: not over four, I am sure.

Q. And they were buying oil of different companies, and you didn't know of whom?—A. No.

Q. How many did the National have?—A. I think they had three retail wagons.

Q. When you started in?—A. Yes, sir.

8749 Q. Now, you afterwards increased your equipment there, didn't you?—A. Yes, sir.

Q. To how many wagons?—A. Why, I got altogether three new wagons that were specially built for that purpose, and I kept the two old wagons as relay wagons, extra wagons, in case of trouble, you know.

Q. What do you mean by "trouble?"—A. If a wagon should break down, you would want something else to go after it.

Q. Then, you had five wagons in use there?—A. Yes.

Q. How long after you first started in there before you increased your equipment up to five wagons?—A. Those wagons were not in daily service, you understand. There were three of them in daily service and the others were used, as I said, as extra wagons. I think I got two new wagons—I may have gotten one at a time, I am not

sure—about two months after I was sent there, and then I got the other wagons alone.

Q. From where did you get those wagons?—A. Shipped to me from Baltimore.

Q. Who shipped them?—A. Mr. Bender.

Q. Mr. Bender?—A. I presume so.

8750 Q. Were they one-horse wagons or two-horse wagons?—A. One-horse wagons.

Q. You didn't sell any oil at all to dealers, did you?—A. No, sir.

Q. Didn't interfere with that trade?—A. No, sir; none whatever.

Q. Did the Standard Oil Company supply dealers in Norfolk from their tank wagons?—A. Yes, sir.

Q. So that you were indirectly competing with the Standard Oil Company, weren't you?—A. Indirectly; yes, sir.

Q. Did the Standard Oil Company have any peddlers on the street?—A. Not that I know of.

(A recess was here taken until 2 o'clock p. m., at which time the cross-examination was resumed by Mr. Morrison, as follows:)

8751 Q. Can you give the names of the persons or of the concerns that were operating peddling wagons on the streets during the time that you were at Norfolk?—A. Only the National Oil Company.

Q. You knew the names of the others, didn't you, when you were there?—A. Oh, yes.

Q. Were you personally acquainted with the drivers and managers of them?—A. The others outside the National Oil Company were very small concerns. The man that owned the business drove the wagon himself and operated himself.

Q. There were, I think you said, about three of them besides the National?—A. I think so.

Q. Neither one of them had more than one wagon and one horse?—A. That is my recollection.

Q. And you don't know where they bought their oil?—A. No.

Q. You didn't know at the time?—A. No.

Q. When you went to Norfolk you said you had the wagons painted, did you—the old wagons?—A. No, sir; not the old wagons.

Q. Did you use the old wagons at all?—A. Occasionally, as relay wagons, in emergency cases at that time.

Q. Didn't you use them in the start?—A. Used them at first; yes, sir.

Q. How long?—A. I used them for, I think, about two months.

Q. And then you got the three new ones?—A. Yes.

Q. You said you had signs on these wagons. What kind of signs were they?—A. It was a good-sized signboard, elevated over the wagons with iron rods, with the prices of oil and gasoline

8752 painted on this sign—on both sides of the sign.

Q. Did you have the same price all the time?—A. No; I didn't. The market changed sometimes.

Q. When the market changed did you paint your sign over?—A. Oh, yes; changed the sign.

Q. How often did that happen?—A. I couldn't say.

Q. About how often?—A. It might have happened three or four times. I have no clear recollection on the number of changes.

Q. You don't think there were more than three or four changes in the price made while you were there?—A. That is my recollection.

Q. And whenever those changes occurred you painted out the price on your sign that had been there and painted on the new price?—A. I had tin tags that I hooked on that signboard under the word "oil" and under the word "gasoline."

Q. Then you didn't paint out the price?—A. No; I just took—for instance, if it was 12 cents and there had been an advance of a cent a gallon, making 13 cents, I put up a tag with 13 cents on it.

Q. But left the 12 painted on there?—A. No; that wasn't painted on there. That was on tin tags that were attached to the signboard on the wagon.

Q. Then you had different tags that you could put up there to indicate what the price was on that particular day?—A. Yes.

Q. That is the way you managed it, as I understand it?—A. Yes.

8753 Q. Now, when was this army of canvassers put on to the streets?—A. It was, I think, during the fall or the early winter.

Q. How long after you commenced there?—A. I think about two months and a half, or possibly three months.

Q. You ran along about three months and a half without any canvassers except yourself?—A. Except myself and my drivers.

Q. When you started in there did you start in alone, driving one wagon yourself?—A. No, sir.

Q. You hired another man?—A. There were two men already hired when I went there.

Q. Then there were three of you?—A. Yes.

Q. All the time?—A. Yes.

Q. When you were operating two wagons, what did the third man do?—A. I was the third man. I didn't drive a wagon.

Q. You superintended the business?—A. Yes, sir.

Q. Did you drive a wagon at all?—A. No, sir.

Q. You made no sales yourself, then?—A. Not directly.

Q. What were you doing?—A. Soliciting trade.

Q. You were out all the while soliciting trade?—A. Soliciting trade.

Q. Now, I think you said that in the beginning you were selling about 150 gallons—or about 75 gallons, wasn't it?—A. 75 gallons per wagon.

Q. Per wagon. That would be about 150 for the two?—A. Yes.

Q. How long did that continue?—A. When I first took hold. The first week or so my sales were along there, and of course

8754 the business increased right straight along.

Q. When did it get up to the highest point, which, I think, you said was 150 gallons finally per wagon?—A. No; about 250 I think I said.

Q. Did you say 250 or 150 gallons per wagon?—A. I said 150 gallons per wagon, I thought that was the average, about the time we put on the new wagons, and then I said when I left Norfolk I thought our average was about 250 gallons per wagon.

Q. When you put on the new wagons did you have any more men in your employ?—A. No.

Q. Well, up until the time you put on the new wagons there were three of you?—A. Yes.

Q. Didn't you need any additional help?—A. I didn't get all three wagons at once.

Q. Well, when you got the third wagon——A. I hired another man.

Q. So that after about two months you had four men there?—A. Yes; I had about four men.

Q. Then, how long before you put on the next wagon?—A. I only had on the three regular wagons, and the two extra wagons in the yard.

Q. Did you have anybody else in your employ except those three men?—A. I had a man to work around the plant and fill the tanks; general utility man you might call him.

Q. Did you have him in the beginning?—A. No, sir.

Q. When did you put him on?—A. Some time in the fall, about the time I got the new plant in operation.

8755 Q. So that when the new plant was in operation there were five of you?—A. About that.

Q. And how many horses?—A. I think I had four; three or four.

Q. From the beginning?—A. No, sir; two in the beginning.

Q. Two in the beginning, and then when you started the new plant you put on two more?—A. I had the two, and I think I must have gotten another horse. I had either three or four horses after the new plant was started.

Q. Don't you know which it was?—A. No, sir.

Q. You don't remember?—A. No, sir.

Q. Did Bender send you these horses?—A. Yes, sir.

Q. What was your gallonage per day when you quit?—A. About 250 gallons for each wagon.

Q. That would be for three wagons, at 250?—A. About that, sir.

Q. 750 gallons a day you were selling when you left?—A. Something like that.

Q. And you started in at about 150?—A. About that; yes, sir.

Q. What were you paying these men that were working for you?—A. I think it was $9 a week, $1.50 a day.

Q. Apiece?—A. Apiece; yes, sir.

Q. Did they get any commissions besides that?—A. Yes, sir.

Q. How much?—A. I have forgotten just what that was. I can't remember.

8756 Q. Haven't you any idea about it?—A. I think it was half a cent a gallon on every gallon over a thousand gallons a week; something like that; I am not sure, though.

Q. Do you know what it amounted to, about how much a day?—A. No, sir.

Q. Haven't you any idea about that?—A. No, sir; I can't recall that.

Q. You kept a record of it there in your office, didn't you?—A. Oh, of course; certainly.

Q. Where is that record?—A. I don't know, sir.

Q. Where was it when you saw it last?—A. I presume it was left down there when I went away from there.

Q. With your successor?—A. Yes, sir; I presume so.

Q. What did it cost you a day to keep your horses?—A. I don't know.

Q. You can give us some estimate, can't you?—A. No; I can't.

Q. You bought the stuff, didn't you?—A. Yes, sir.

Q. Bought the hay and the grain?—A. Yes, sir.

Q. Can't you make any estimate?—A. No; I wouldn't like to do that. The price of hay and grain varied a great deal at different times.

Q. I know you can't come down to a cent, but you can tell about what it costs. You have been keeping horses for many years, haven't you?—A. Yes.

8757 Q. You know about what it costs a day or a week, don't you?—A. I know how much stuff I feed, but I don't know how much it costs.

Q. You can't give any idea how much it costs in your business to keep a horse a day?—A. No, sir; not at that time; I can't recall the prices.

Q. What does it cost now?—A. It depends altogether upon the price of feed.

Q. At present prices?—A. I don't handle that part of it.

Q. You don't know?—A. No, sir.

Q. What other expenses did you have there?—A. Had the telephone expense.

Q. That was how much a month?—A. Very small; two or three dollars; I don't remember.

Q. What other expenses?—A. I can't recall any other expenses.

Q. You kept your wagons in repair, didn't you?—A. Yes.

Q. That cost something, I assume?—A. I presume it cost something—a small amount.

Q. Had to have your horses shod occasionally, hadn't you?—A. Yes; once a month.

Q. Did you lose any horse while you were there; any of them die, or anything?—A. No, sir.

Q. You are unable to give us the expenses with any degree of accuracy that you paid out while you were there?—A. No, sir; I wouldn't like to try that.

8758 Q. How long did you have these canvassers on the streets?—A. I think for a couple of weeks.

Q. And what did you pay them a day?—A. I don't remember.

Q. You paid them, didn't you?—A. I don't know that I paid them.

Q. Who hired them?—A. I don't know.

Q. Did you hire them?—A. No, sir.

Q. How did they happen to be there?—A. They were sent to me.

Q. By whom?—A. By Mr. Bender.

Q. Who were they?—A. I don't know.

Q. Were they Norfolk people?—A. No, sir; I don't think so.

Q. They were imported in there from some other place?—A. I presume so.

Q. Where did they come from—from Baltimore?—A. I am not sure.

Q. Didn't you talk with them?—A. Yes, sir.

Q. But you didn't learn where they came from?—A. I might have, but I couldn't tell you now.

Q. Where did they live while they were there?—A. They boarded.

Q. Do you know whether any of them had been in the oil business before?—A. No, sir.

Q. What were their names?—A. I don't know.

Q. Don't know any?—A. No, sir.

Q. Did you go with them to make that canvass?—A. No, sir.

8759 Q. You don't know where they went?—A. Oh, I know more or less where they went. I did know where they went, but I couldn't tell you now.

Q. But at the time you had nothing to do with locating the place where they were to go to?—A. I can't recall whether I did or not.

Q. Who did tell them where to go, and what to canvass?—A. I can't tell you what instructions they had—I can't tell you now.

Q. You don't know anything about that?—A. No, sir.

Q. You can't tell what trade they canvassed, then?—A. The consuming trade.

Q. Did they make a report to you? Did they make daily reports to you?—A. Yes, sir.

Q. Of the customers they had secured?—A. Yes, sir.

Q. You don't know what arguments they used, do you, to get the customers?—A. No, sir.

Q. You were not present?—A. No, sir.

Q. Did you ever canvass any yourself?—A. Yes, sir.

Q. What arguments did you use?—A. The superiority of the can, being nonfillable and nonspillable, the convenience to the customer in filling lamps and filling stoves, the avoidance of danger, and the prompt service and the good service, good delivery.

Q. Now, the fact that these were nonfillable was not any convenience to the customer, was it?—A. No.

8760 Q. Not a bit. You said in your testimony this morning that they were sure of getting their gallonage. How did the customer know whether he got a gallon in that can any better than he

would know if he got it in any other style of can?—A. That can could be very easily measured.

Q. No more easy than any other can, could it?—A. Well, I don't know that the customers could measure it, but I could prove it to them very easily that it held a gallon.

Q. But there was nothing in the can itself that was superior to any other can in that respect, was there?—A. So far as holding a gallon?

Q. Yes.—A. No, sir.

Q. So that was no help to the consumer?—A. No, sir.

Q. Now, it was unspillable. That was one of your big arguments then, wasn't it?—A. Yes, sir.

Q. And I suppose that the customers there had suffered so much from spilling their oil that they were ready to leave the people that they were with and go to you at the same price, were they?—A. Well, they came to us.

Q. You don't think of any other superiority than those you have mentioned in the square can over the ordinary can, do you?—A. No, sir, not at present.

Q. The square can, I take it, must have become very popular in Norfolk; is that right?—A. Yes, sir. A good many of them there.

Q. And it wasn't because you were acquainted with the peo-
8761 ple there—because you were not—and your canvassers were all strangers in that town, were they not?—A. Yes, sir.

Q. So to increase your gallonage, as you say you did increase it, you had to argue the superiority of your can?—A. That with other things.

Q. What other things?—A. The promptness of service, assuring people of good delivery, and prompt attention. That all had its weight.

Q. Had these other peddlers failed to promptly attend to their customers?—A. Very often.

Q. They were lax in their methods?—A. Very often.

Q. And you assured them that you would do better in that respect?—A. Yes, sir.

Q. There was quite a competition there among the peddlers before you got there wasn't there?—A. I don't know, sir.

Q. Did you make any money while you were there?—A. I don't know.

Q. Didn't you know at the time?—A. No, sir.

Q. Did you make your expenses?—A. I don't know.

Q. Did you ever know?—A. No, sir.

Q. Never knew?—A. No.

Q. You took in all the money, didn't you?—A. Yes, sir.

Q. You paid all the bills?—A. Yes, sir.

Q. Which way was the balance when you got through?—A.
8762 don't know. I remitted the money to Baltimore and I didn't pay all the bills or all the help, as you may call it.

Q. You had no money from Baltimore?—A. Yes, and I sent money to Baltimore, too.

Q. And got money back?—A. Yes, sir.

Q. How much money did you send to Baltimore while you were there?—A. I don't know.

Q. Give us some idea.—A. I can't do it.

Q. How often did you remit to Baltimore?—A. I don't know that.

Q. How many times? Do you know anything about that?—A. No, sir.

Q. How many times did they remit to you?—A. I don't know that.

Q. What amount? Do you know anything about that?—A. The amounts were principally for the pay rolls and such as that.

Q. They had to remit from Baltimore?—A. Yes, sir.

Q. Why didn't you pay them out of the proceeds of your office?—A. It wasn't my instructions.

Q. They didn't permit you to do that, then?—A. No, sir.

Q. Didn't you pay any of your help out of the proceeds of the business?—A. No, sir.

Q. You would send your money into Baltimore and then they would send it right back to you to pay your help with?—A. I
8763 don't know anything about that; I don't know what they did with it.

Q. They sent money back, didn't they?—A. Yes, sir.

Q. So you were sending money up there and they were sending it back?—A. Yes, sir.

Q. Did you keep any bank account in Norfolk?—A. No, sir.

Q. How often did you send your money to Baltimore?—A. I don't know.

Q. Every day?—A. No, sir.

Q. Every week?—A. I don't remember; I can't recall that.

Q. Haven't you any recollection about that business down there at all?—A. No, sir.

Q. Did you send money up there oftener than they sent it back to you?—A. I don't remember.

Q. Did you keep any books?—A. Yes, sir.

Q. That book you left there, did you, when you went away?—A. Yes, sir.

Q. Didn't return it to Bender?—A. No, sir.

Q. Who succeeded you there?—A. Lemuel Willmar.

Q. You turned over everything to him?—A. Yes, sir.

Q. So you don't know whether you were making money there or losing money?—A. No, sir.

Q. Have you ever figured out, or did you at the time when you were doing the business there, how much your expenses were per day or per week or per month and how much you were taking in?—A. I don't recall doing that.

Q. Had no concern, had you, on the question as to whether you were losing money or making money?—A. I don't know now. I can't recall anything of that kind.

8764 Q. That didn't interest you, did it?—A. It interested me, of course. I was doing the best I could, doing all the business I could, selling all the goods I could, and wanted to make good.

Q. And whether you were making money or not didn't interest you?—A. It did interest me.

Q. But you don't remember now whether you lost or whether you made, regardless of figures?—A. I can't remember the fact.

Q. Didn't Bender ever tell you whether you were running at a loss or not?—A. I can't recall any such.

Q. Didn't he ever tell you you should straighten up and get more business; you were losing money?—A. No.

Q. Did he ever tell you the more business you got the more money you lost?—A. No, sir.

Q. Didn't say anything about that. What was the value of your outfit when you left there?—A. I couldn't tell you.

Q. About what? Give us some estimate. You are a man of affairs and used to handling that sort of outfits. You can tell us about what it was worth, can't you?—A. There was a lot of stuff I had there that I didn't know what it cost.

Q. What did you have when you left?—A. I had lots of cans.

Q. How many?—A. I don't know. I had a carload at one time.

Q. And how many wagons did you have?—A. I had five, all told, including the old wagons.

8765 Q. What were they worth?—A. They were worth mighty little—the old wagons.

Q. What were the new wagons worth?—A. I don't know what they were worth.

Q. Haven't any idea?—A. No; I haven't an idea what they cost.

Q. What were the horses worth?—A. I sold one for $40.

Q. What were the others?—A. They wern't worth very much; they were cheap horses.

Q. You sold one; did you buy another in its place?—A. No, sir.

Q. Was another sent you?—A. Yes, sir.

Q. When did you sell that one—how long before you left there?—A. A couple of months before I left there.

Q. Would they average to be worth $100 apiece—those that you had when you left there?—A. I am not sure about that; I don't know what they were worth.

Q. Haven't any idea?—A. No, sir.

Q. Now, you were leasing, as I understand you, this old stable when you started in there, weren't you?—A. I don't know whether it was under lease or monthly rent.

Q. Monthly rent, you say?—A. Yes. I say I don't know whether it was under lease or just under monthly rent.

Q. Well, that would be a lease, wouldn't it, a monthly rental? You mean you don't know whether it was a written lease or not?—A. Yes, sir.

Q. How much rent were you paying there?—A. I don't remember.

8766 Q. Did you pay the rent?—A. I don't know whether I did or not. I think I did.

Q. Did you pay it out of the proceeds of the business?—A. I can't recall.

Q. Whom did you pay it to?—A. I don't know.

Q. Didn't you ever know?—A. If I did I knew whom I paid it to. I couldn't have paid it unless I knew whom I was paying it to.

Q. Well, did you pay it?—A. I think I paid it. I am not positive, though.

Q. Can you tell whom you paid it to?—A. No, sir.

Q. Was there anybody in possession of those premises besides you?—A. No, sir.

Q. Was there a house on the same lot or in the same inclosure?—A. I am not sure whether there was or not.

Q. Don't you remember anything about that?—A. There was a stable in the back and a yard connected with this stable. I don't know whether there was a house in front of the stable or not; I have forgotten.

Q. You always went to your barn through the alley?—A. Yes, sir.

Q. And the oil was delivered in that alley?—A. Yes, sir.

Q. Did they drive in out of the alley into the yard to unload?—A. Yes, sir.

Q. Was it fenced, inclosed with a fence?—A. I am not sure whether there was a gate there or not.

Q. Was there a fence there?—A. I am not sure.

8767 Q. How did they get into this yard?—A. I think there was just an open yard.

Q. You think it was?—A. Yes.

Q. Don't you remember anything about that?—A. I am telling you the best I can.

Q. The question is whether you remember anything about that. Did they drive into a yard through a gate and deliver this oil in your wagon, or how did they get in there to deliver?—A. I don't know whether the yard had a fence and a gate to it, or whether it was just simply an open space they drove in. They drove in, that I know.

Q. Out of the alley?—A. Yes.

Q. You don't know whether there was a dwelling house on the front of that lot or not?—A. No, sir.

Q. You don't know whether it was inclosed or any part of it was inclosed with a fence?—A. I know the sides were.

Q. They were?—A. Yes, sir.

Q. Tight board fence?—A. It was just a rough old board fence.

Q. An ordinary board fence?—A. Yes.

Q. Not a tight one?—A. No, sir.

Q. That lot fronted on what street?—A. I can't recall.

Q. You called this a stable. Was it a building that had been used as a stable for horses or stock?—A. It had been used for horses, yes.

Q. Did you keep your horses in there?—A. Yes, sir.

Q. And your wagons in that yard?—A. Yes, sir.

8768 Q. Kept all of your property there at that stable?—A. Yes.

Q. Was the stable large enough so that you could get it all into it?—A. No; the wagons were in the yard; of course, the horses were in the stable.

Q. Where did you keep your cans?—A. Didn't have any.

Q. The cans were delivered to you filled with oil, weren't they?—A. No, sir.

Q. How were they? How did you get the oil that you distributed?—A. I got the oil from the tank wagon; the tank-wagon men filled the cans in the yard.

Q. Then you must have had cans there in the yard, didn't you?—A. Yes, sir. What I meant was the 1-gallon cans when I made that statement a moment ago.

Q. That you didn't have them?—A. Yes; I didn't have them at that time.

Q. Well, didn't you have the 1-gallon cans from the start?—A. No, sir.

Q. When did you get them?—A. About two months after I was there.

Q. So that the increase in your business, then, during the first two months was not owing to the square can at all?—A. No, sir.

Q. How were you delivering oil to your customers during that period—out of the ordinary milk can, as they call it?—A. I never called them milk cans. Ordinary oil cans.

Q. 5 or 10 gallon cans?—A. Yes; 5 gallons.

Q. Did you set those cans into your wagon and go from
8769 house to house with them?—A. Yes, sir.

Q. And drew from those cans into other cans to deliver to the customer?—A. Yes, sir.

Q. Where was your second location?—A. Church street and Norfolk & Western Railroad.

Q. Is that in the center of the city?—A. No, sir.

Q. How far is it from the center?—A. It is on the outskirts of the city.

Q. What kind of a building did you have there?—A. I had a small warehouse and a stable.

Q. Did you build it or was it already constructed when you went there?—A. It was built under my instruction, you might say.

Q. Who built it?—A. I have forgotten the man's name.

Q. Somebody living in Norfolk?—A. Yes, sir.

Q. Who hired him to build it?—A. I think Mr. Bender made the arrangements with him.

Q. Who paid him?—A. I was sent money from Baltimore to pay him.

Q. Was that anywhere near the Standard Oil Company plant?—A. Yes, sir.

Q. How near to it?—A. Across the railroad track.

Q. There plant was right over across the railroad track?—A. Yes, sir.

Q. Now, while you were there did anybody accuse you of operating your concern in the interest of the Standard Oil Company?—A. I think I heard something of that kind.

8770 Q. You heard it pretty often, didn't you?—A. No, sir.

Q. Didn't you drivers report it to you?—A. I don't know; they might.

Q. Weren't Finlayson and his drivers constantly circulating the report on the streets of Norfolk that you were there in the interests of the Standard Oil Company?—A. I heard that.

Q. Came to you daily, didn't it?—A. I don't know, sir.

Q. Wasn't that the argument they used against you there?—A. It might have been.

Q. Don't you know that it was?—A. That was one of them.

Q. That was the principal argument, wasn't it, that you were there as a blind? Isn't that true?—A. No; I never heard that.

Q. What did you say when that report came to you?—A. I denied it.

Q. You denied it?—A. Yes, sir.

Q. What did you do that for?—A. Well, because I believed I was perfectly proper in doing so.

Q. Why so?—A. Because I believed that.

Q. At that time you believed that you were running an independent concern, didn't you?—A. Absolutely.

Q. What made you believe that?—A. I had no particular reason to believe otherwise.

Q. Did Bender tell you that?—A. I don't know that he told me either one thing or the other.

8771 Q. Well, he gave you to understand that, didn't he?—A. He might have.

Q. And you understood that you were running a concern that was independent from the Standard Oil Company, didn't you?—A. It never concerned me in the slightest.

Q. No; answer my question. Didn't you so understand it?—A. That was what I said a few moments ago, that I wouldn't have said so if I hadn't thought so.

Q. When these statements were made that you were going in the interests of the Standard Oil Company you denied it, didn't you?—A. Yes, sir.

Q. Did you ever tell Bender what they were accusing you of doing down there?—A. I can't recall that I did.

Q. Well, wouldn't you naturally report to your chief that they were circulating those scandalous reports about you?—A. Well, I may have done so and I might not; I can't say that I did.

Q. Well, it would be quite natural for you to do it, wouldn't it?—A. It might be so.

Q. Bender was there quite frequently himself, wasn't he?—A. Yes, sir.

Q. And you and he talked the business over, didn't you?—A. Yes.

Q. You told him about what competition you had there, didn't you?—A. Yes, sir.

Q. You told him the obstacles that you men met, didn't you, in marketing the oil?—A. Yes, sir.

8772 Q. Told him all the troubles you had, didn't you?—A. Naturally.

Q. And the principal trouble you did have was the fact that they circulated the report that you were there in the interest of the Standard Oil Company, wasn't it?—A. It might have been; I don't know.

Q. Don't you know that it was?—A. No, I don't.

Q. What else could they say about that?—A. Because I was busy getting business, I wasn't bothering with what they were saying all the time.

Q. You were busy getting business and were right around in touch with the people that were circulating that report, weren't you?—A. No, sir, the people didn't circulate it at all.

Q. Who did circulate it?—A. If anybody did circulate it, it was the other fellows. The public weren't worrying about that so long as they got their oil.

Q. The people didn't care, you thought, whether they got it of the Standard or not?—A. No.

Q. When you were accused of operating in the interests of the Standard, did you tell them whom you were operating for?—A. I told them I was operating for the Home Safety Oil Delivery.

Q. Did you tell them what that was or who owned it?—A. I don't know.

Q. You don't know whether you told them or not?—A. No, sir.

8773 Q. You don't remember that?—A. No, sir.

Q. Didn't you have some talk yourself with Finlayson's men about this?—A. No, sir.

Q. Didn't they accuse you right to your face of operating here in the interests of the Standard Oil Company?—A. No, sir.

Q. They didn't tell you that?—A. No, sir.

Q. Did they tell your drivers that?—A. I don't know, sir.

Q. Didn't they report to you that they had been accused openly on the streets of working in the interests of the Standard Oil Company?—A. I can't recall any such instance.

Q. You won't say they didn't do that?—A. I won't say whether they did or whether they didn't. I can't recall any such instance.

Q. You had a pretty hot fight down there, hadn't you?—A. I don't know. I know we were getting the business right along, we weren't losing anything.

Q. Yes, you were getting the business?—A. And getting it straight.

Q. Well, you had a hot fight in there with you competitors, hadn't you, to get that business?—A. I don't think it was so awful hot.

Q. You don't think it was so awful hot?—A. No, sir.

Q. It was just a calm, quiet affair, wasn't it? You just simply walked in there, an entire stranger, and took the business?—A. Not quite; I was there for a little while.

8774 Q. Yes, six months. That is true, you just went in there quietly and took the business; that was all there was to it, wasn't it?—A. Well, I didn't take all the business.

Q. No, but you increased your business by two or three hundred per cent, didn't you?—A. Yes; but with only three wagons that is not such an enormous increase.

Q. No, but it was all those three wagons could do, wasn't it?—A. Well, they were pretty busy for a while.

Q. Yes, they were pretty busy. Well, you never cut a price?—A. Sir?

Q. You never cut a price in your life?—A. Cut a price; no, sir.

Q. Never?—A. No, sir.

Q. And when your competitor would cut a price you would just let him go and you would go right on and keep your customer anyhow, wouldn't you?—A. No, sir.

Q. You lost your customer, did you?—A. Yes, sir.

Q. Every time they made a cut?—A. Not always. Sometimes a customer won't leave on a cut. He considers the service and treatment sometimes better than a little lower price.

Q. Is that generally true?—A. No, sir.

Q. Generally where they would cut they would get your customers?—A. Yes, sir.

Q. That is a pretty good way of getting customers, isn't it?—A. Sometimes.

Q. Did you lose very many customers by the independents or anybody else cutting your price?—A. I lost quite a few.

Q. Now tell us how many you lost in the six months you were
8775 there.—A. Oh, I couldn't begin to.

Q. You haven't any idea about that?—A. No, sir.

Q. You kept no list of them, did you?—A. No, sir.

Q. Now, did you know what your competitors were selling for all the time?—A. I knew, generally, right straight along what they were selling for.

Q. You didn't have anything to do with raising or lowering prices, did you?—A. No, sir.

Q. You don't know whether when the price was lowered it went below the others or not, do you?—A. No; all I can say is that I know my price was the current price there all the time.

Q. Every minute of the time?—A. Oh, I wouldn't say it was every second of the time.

Q. No. Do you mean to say that you and all the other dealers there raised and lowered at the same time?—A. They gave my price generally. I made no cuts.

Q. I mean now specifically. You did lower the price on your oil there at various times, didn't you?—A. I don't remember whether I lowered it or raised it.

Q. Did you raise it every time?—A. I don't remember.

Q. Don't remember whether you raised or whether you lowered it?—A. No, sir.

Q. Will you swear you didn't lower it every time you made a change?—A. No, sir.

Q. You won't swear whether you did or not? You may have lowered it every time you made a change?—A. I may have lowered it; yes.

8776 Q. You lowered it whenever Bender told you to lower it?—A. I followed his instructions.

Q. Regardless of what your competitors were selling?—A. I carried out his instructions.

Q. So, you don't know, then, whether you were cutting prices or not?—A. I knew what the other prices were.

Q. Yes. The other men would come to your price, perhaps, as far as you knew. (No answer.)

Q. Can you give a single instance, when you lowered the price there, that your competitors were selling for a lower price than you were when you lowered it?—A. No, not their general price.

Q. Now, you said, I think, that you were selling at the current price. What do you mean by that?—A. I mean that price was the price usually charged to the consumers by——

Q. By all of the dealers?—A. By the grocery stores and by the other peddlers.

Q. And you all lowered and you all raised at identically the same time? That is what you mean to say, isn't it?—A. Well, no: I wouldn't say that.

Q. You wouldn't say that?—A. No, because you can't tell what a retail groceryman is going to do.

Q. Then, you might have lowered the price when you lowered, mightn't you, is that true?—A. As far as I can recall, my only changes were when I paid more or less to the Standard Oil

8777 Company for the oil, and as I can best tell you my prices went up and down with the wholesale prices. That is as near as I can tell you.

Q. Did you rise and fall with the wholesale prices of the Standard, or did you rise and fall when Bender told you?—A. I raised—my prices went up and down with the wholesale prices, and also with Mr. Bender's instructions.

Q. Well, both at the same time, you mean?—A. Both about at the same time.

Q. Now let us see if I understand you. Every time that Bender raised the price and every time that he lowered the price, the Standard raised or lowered at the same time: is that right?—A. Every time Bender——

Q. Every time he raised the price there was a raise in the price by the Standard, was there?—A. I can't tell you positively.

Q. You can't tell about that?—A. No, sir.

Q. You can't tell, can you, whether or not every time Bender lowered the price that it was because the Standard had lowered the price?—A. I couldn't tell you; no, sir.

Q. What you mean to say, if I understand you correctly, is that as a general proposition you were all selling at the same price there?—A. Yes, sir.

Q. When your competitors cut the price I think you said you didn't follow them?—A. No, sir.

Q. Well, did they do that very often? Was that very general?—A. The only time they cut the price was cutting the price to
8778 some larger consumers; it was not a general cut or anything of that kind. It was a cut of a half a cent or a whole cent to some particular man on some particular day, and sometimes it lasted for a while and sometimes it didn't last.

Q. And aside from that, as a general thing your prices were all the same?—A. As a general thing the prices were all the same.

Q. You were all selling at the same price?—A. Yes.

Q. You said you finally commenced to mistrust that Bender was connected with the Standard at some period. Will you tell me when it was that you first commenced to mistrust that?—A. I don't know, sir.

Q. Tell me something about it, can't you?—A. It was some time afterwards, but I can't tell you just when.

Q. Was it before or after you left Norfolk?—A. It was after I left Norfolk.

Q. So that during the time you were at Norfolk you had no idea that Bender was operating your company through you in the interests of the Standard?—A. No, sir; I knew nothing about it.

Q. Did Bender ever tell you whether he was or was not?—A. No, sir.

Q. Did you ever ask him?—A. No, sir; I don't think so.

Q. When these men accused you of it and you told Bender, what did he say about it?—A. I can't recall.

Q. Well, you recall this, don't you, that he didn't tell you that
8779 he was operating in the interests of the Standard?—A. I don't recall anything being said about it.

Q. Did he or did he not tell you that while you were at Norfolk?—A. What was the question?

Q. Did Bender or did he not, while you were at Norfolk, tell you that he was operating this company through you in the interests of the Standard Oil Company?—A. No, sir; he never told me, that I know of.

Q. He never told you that he was?—A. He never told me.

Q. Did he tell you that he was not?—A. No, sir.

Q. Did he ever tell you whether or not the Dixie was owned by the Standard?—A. No, sir.

Q. Did he ever say anything about that?—A. No, sir.

Q. Did you ever ask him?—A. No, sir.

Q. Didn't you have any curiosity about that?—A. No, sir.

Q. Did you ever ask Mr. Bender why, if he was running the Dixie Oil Works, that he didn't run it in Norfolk under that name?—A. No, sir.

Q. Didn't it occur to you as something a little strange that the Dixie Oil Works should be operating a concern in Norfolk under another name?—A. No, sir.

Q. You didn't think that strange at all?—A. No, sir.

Q. Did you ever hear of such a thing before that?—A. In the oil business?

Q. Yes.—A. No, sir; I didn't know anything about it. I didn't know anything about the oil business before that time.

Q. Have you heard of it since?—A. How do you mean, sir?

8780 Q. Of one company running another company in another place under another name.—A. Yes, sir.

Q. Who has done that?—A. Why, the National Oil Company of Baltimore has run a wagon in the streets there called the Southern Oil Company.

Q. How do you know it is the National Company?—A. Because they have their tickets.

Q. You have their tickets?—A. No; they have the tickets.

Q. Now, let us see about these tickets. What tickets are you referring to now?—A. National Oil Company tickets.

Q. And where did you get them?—A. I haven't got them.

Q. Where did you see them?—A. Grocery stores.

Q. They were operating under a different name there?—A. No; they had a different wagon, under the name of the Southern Oil Company.

Q. Yes; but the very tickets they gave to the dealers showed that they were running for the National Oil Company, didn't they?—A. Yes.

Q. So they didn't deceive anybody, did they?—A. No, sir.

Q. They put their tickets right out publicly?—A. I don't know whether they deceived anybody or not. There is a lot of trade don't know one ticket from another.

Q. If they went to a grocer and sold him oil and gave a National Company's ticket, that grocer would know, wouldn't he, who was at the back of that?—A. Some would and some not.

8781 Q. Some wouldn't know?—A. No, sir.

Q. Why wouldn't they?—A. I don't know, sir.

Q. How is that?—A. Ignorance, I suppose.

Q. Yes; they would have to be pretty ignorant, wouldn't they?—A. There are lots of them that are.

Q. The majority of them are, you think?—A. No; I wouldn't say the majority.

Q. You would know in a minute, wouldn't you, if you saw that kind of a deal?—A. Yes, sir.

Q. You would see through that, wouldn't you?—A. Yes, sir.

Q. Were your wages raised during the time you were at Norfolk?—A. No, sir.

Q. You were getting $65 a month?—A. Yes, sir.

Q. That is $2.50 a day for every working day, on an average, in the month, isn't it?—A. Yes, sir.

Q. How did Bender happen to send you to Norfolk, or to the next place that you went after leaving Norfolk? Where was that?—A. I was in Baltimore for a month or so, and then went to Durham, North Carolina.

Q. You left Norfolk along in January or February, 1903?—A. Yes, sir.

Q. What did you do next?—A. I was in Baltimore, and then went to Durham, North Carolina.

Q. What were you doing in Baltimore?—A. Oh, I made one or two little trips out of Baltimore for the Dixie Oil Company.

8782 Q. For whom?—A. For the Dixie Oil Works.

Q. What reason did Bender give for taking you out of Norfolk?—A. I don't know, sir.

Q. What did he say about that? How did you happen to leave Norfolk?—A. I can't recall just the reasons he gave at all.

Q. Haven't you any recollection about it?—A. I think he told me they wanted to put me on the road for the Dixie Oil Works; that is my recollection.

Q. And so you went to Baltimore, did you?—A. Yes, sir.

Q. And you were around there for a month or so?—A. Yes, sir.

Q. And you went out on the road, did you?—A. Yes, sir; just some little short trips out of Baltimore.

Q. What trade were you selling to?—A. I was selling to the grocery trade.

Q. In barrels?—A. In barrels; yes, sir.

Q. How much of the time were you on the road while you were at Baltimore?—A. I was practically on the road all the time.

Q. And then Bender asked you to go to Durham, did he?—A. Yes, sir.

Q. Did he tell you what name to operate under there?—A. No, sir.

Q. What name did you use there?—A. Dixie Oil Works.

Q. Did he go down there with you?—A. Yes, sir.

Q. Took you down there?—A. Yes, sir.

Q. And was the Dixie Oil Works doing business there when you got there?—A. They had no plant or place there. They ship-

8783 ped some barrels in there occasionally.

Q. Did they have anybody there in charge of it?—A. A traveling man went there possibly once a month; I don't know how often, but I know he made the point.

Q. There was simply a traveling man that went there and they shipped the oil in there to him?—A. I don't know how the oil was sent in there, whether it was sent in direct or——

Q. What kind of a plant did they have down there?—A. Before I went there?

Q. Yes.—A. None whatever.

Q. Then, there wasn't any Dixie Oil Works there, was there?—A. No; simply sold a little goods in the town and shipped from an outside point.

Q. They simply sold goods through a traveling salesman?—A. Yes, sir.

Q. That is all there was to the Dixie Oil Works in Durham, isn't it?—A. Yes, sir.

Q. Did the Dixie have a pretty good trade there?—A. When I went there?

Q. Yes.—A. No, sir.
Q. About what was their trade, what did it amount to?—A. I don't know, but it was very small.
Q. How did you know it was small? What do you know about it?—A. I know because customers that were turned over to me were only three or four customers.
Q. Who else were doing business in Durham?—A. The Standard Oil Company.
Q. And who else?—A. The Red "C" Oil Company.
8784 Q. Did they have a plant there?—A. No, sir.
Q. What did they have there?—A. They had an agent there, a wholesale grocery house.
Q. And this agent was jobbing the oil, was he?—A. Yes, sir.
Q. And selling to the dealers there pretty generally?—A. He was selling some oil.
Q. He had most of the trade there, hadn't he?—A. No; I don't think he did.
Q. Who did have the most of the trade there?—A. I presume the Standard Oil Company did.
Q. Well, you presume; do you know anything about it?—A. I think the Standard Oil Company had the most of the trade. I am not positive, though.
Q. Did they have any tank station there?—A. Yes, sir.
Q. Did the Red "C?"—A. No, sir.
Q. The Red "C" was shipping in there in barrels, wasn't it?—A. Yes, sir.
Q. To this grocer or dealer there?—A. Yes, sir.
Q. And he was supplying his trade?—A. Yes, sir.
Q. How long had the Red "C" been doing that?—A. I don't know.
Q. Did Mr. Bender tell you why he wanted to open up a business in Durham?—A. I don't recall.
Q. Don't remember any reason that was given to you for going to Durham?—A. Nothing except to start this business.
Q. Didn't Bender tell you why he wanted to start business in there?—A. No, sir.
8785 Q. Didn't say anything about that?—A. Not that I can tell you.
Q. Were the Red "C" and the Standard selling at the same price when you got there?—A. Yes, sir.
Q. There was no cutting between them at all?—A. No, sir.
Q. What did you do in the way of starting a plant there?—A. I rented an old warehouse and in a few weeks I got in a horse and wagon—small tank wagon—a pump and some equipment to do a tank-wagon business with.
Q. How much money did you invest in your equipment, plant, and everything?—A. I think the warehouse cost $5 a month. I am pretty sure that is right.

Q. You bought horses, didn't you?—A. No, sir; the horses were sent to me.

Q. The wagons sent to you?—A. Yes, sir.

Q. Anything else that you had to buy?—A. Not that I know of.

Q. Anything else sent to you?— I don't remember.

Q. Now, when you went there, the Standard was delivering oil from tank wagons to dealers, wasn't it?—A. Yes.

Q. It wasn't doing a barrel business, was it?—A. Not in the town.

Q. The Red "C" Oil Company was delivering oil in barrels to the trade, wasn't it?—A. Yes, sir.

Q. And it wasn't running a tank wagon?—A. No, sir.

Q. How did you receive your oil—in barrels?—A. In barrels, yes, sir.

8786 Q. How did you distribute it?—A. By tank wagon.

Q. To the dealers there?—A. Yes, sir.

Q. Did you have a list of the Standard Oil Company's dealers?—A. I don't think so.

Q. Are you sure about that?—A. I am not positive; no, sir.

Q. Did you deliver oil in barrels, while you were there, to anybody?—A. I might have done so, to some store.

Q. Well, the question is, did you?—A. I think I did.

Q. How is that?—A. I think I did once or twice.

Q. Didn't you quite generally?—A. No, sir.

Q. Did you ever have more than one tank wagon there?—A. No, sir.

Q. You drove that yourself, did you?—A. No, sir.

Q. What were you doing?—A. I was in Durham part of the time, and I was away from there part of the time.

Q. How did you deliver the oil that you sold in barrels? How did you get it to the dealer's place of business?—A. I am not positive about that. I think the dealer sent for it and got it in his own wagon.

Q. Did you have any dray or any wagon with which to deliver?—A. No, sir.

Q. You think, do you, that they came to your place and got it?—A. Yes, sir.

Q. To your wagon?—A. Yes.

Q. Are you sure about that?—A. Very occasionally I did sell it, but very seldom.

Q. Did you do any business outside of Durham?—A. Yes, sir.

Q. That you did as a barrel business, didn't you, outside?

8787 A. Very little.

Q. Well, you did a very little business of any kind, didn't you? You only had one wagon?—A. Well, it was a small town; kept me busy.

Q. 10 or 12 thousand?—A. Yes, sir.

Q. And where did you sell your barreled oil which you sold at Durham?—A. Oh, I don't suppose I sold five barrels a month outside of Durham.

Q. Did you have anybody soliciting the outside trade?—A. I went to the trade myself occasionally.

Q. What is that?—A. I called on it myself.

Q. You were out all the time, weren't you?—A. Yes, sir.

Q. Trying to sell in barrel lots?—A. Yes.

Q. And you didn't sell more than five barrels?—A. I was in other business. I was in eastern North Carolina for a part of the time.

Q. What were you doing over there?—A. Selling barreled oil.

Q. For whom?—A. Dixie Oil Works.

Q. Under what name?—A. Dixie Oil Works.

Q. Did you establish a plant anywhere else over there?—A. No, sir.

Q. You were just on the road selling for the Dixie?—A. Yes, sir.

Q. And at the same time you were managing this plant at Durham?—A. Yes, sir; I made that my headquarters.

Q. Who was your driver at Durham?—A. I can't remember the man's name. Hans something. Hamilton somebody. I have forgotten his first name. His last name was Hamilton.

8788 Q. How long did you run the works at Durham?—A. I was there about six months.

Q. When you made sales on the road, where was your oil shipped from—from Baltimore or from Durham?—A. From Baltimore.

Q. Did you have more than one tank wagon when you left Durham?—A. No, sir.

Q. What salary were you then getting?—A. I think I was getting the same salary.

Q. How much?—A. The same salary that I was getting in Norfolk.

Q. What did you pay your driver there?—A. I don't remember.

Q. Who had the largest barrel trade in Durham after you went there?—A. In Durham proper?

Q. Yes.—A. The Red "C" Oil Company were the only people selling to the barrel trade there.

Q. You say Durham proper. I mean Durham and the surrounding territory tributary to it.—A. Well, the Red "C" Oil Company.

Q. I think you said you got most of the barrel trade?—A. Well, I diverted it to the tank-wagon business.

Q. What is that?—A. I sold to most of the people that were buying in barrels and served them from the tank wagons. That is what I mean by that.

Q. When you say that you got the barrel business, you mean that you converted it from a barrel business into a tank-wagon business?—A. Yes, sir.

Q. Then your customers were principally the Red "C" customers?—A. Yes, sir.

Q. When you were outside of Durham, were you working under the directions of Mr. Bender?—A. Yes, sir.

8789 Q. Did he tell you where to go?—A. Well, not every time. He told me the territory that I had and, of course, I traveled, as I thought, for the best.

Q. Did you have any list of customers to call upon?—A. I can not recall whether I did or not.

Q. How is that?—A. I don't remember whether I did or not.

Q. Don't you know that you did, and that Bender furnished you a list?—A. No, sir.

Q. You don't know whether he did or not?—A. No, sir.

Q. Don't you know whether anybody furnished you a list?—A. No, sir.

Q. Don't remember that?—A. No, sir.

Q. You don't know, then, whether you just simply looked for customers yourself or whether you had a list furnished you?—A. I was selling to all the trade I could.

Q. That is not the question. The question is whether or not you had a list of customers to call upon, and you say you do not know.—A. I am not positive at all.

Q. How large a business were you doing in Durham when you ceased running that concern?—A. Why, I think we were selling then about 300 gallons a day from that tank wagon, to the best of my recollection.

Q. What was the difference between what you paid for the oil and what you sold it for?—A. I did not know what the oil cost.

Q. What is that?—A. I did not know what the oil cost.

Q. Didn't you know what you paid for it?—A. No, sir.

Q. How did that happen? You were running the business.—A. The stuff was sent to me from Baltimore, and I did not

8790 know what it cost.

Q. It was shipped to you?—A. Shipped to me from Baltimore.

Q. Who told you what to sell it for?—A. Mr. Bender.

Q. Did the price remain the same all the while or did it change occasionally?—A. I don't remember whether there were any changes or not.

Q. What were you selling it for in that place?—A. I don't remember.

Q. You don't know what you sold it for?—A. No, sir.

Q. Did these dealers that you sold to put in tanks and equip themselves to receive oil from tank wagons in Durahm?—A. I think most of them had tanks in.

Q. Most of them did have tanks?—A. Yes, sir.

Q. Did you put in any tanks?—A. No, sir.

Q. How did you happen to leave Durham?—A. I was told to come to Baltimore.

Q. Who succeeded you in charge of the business at Durham?—A. I think the tank-wagon driver.

Q. You think he was made the manager?—A. I think he ran the wagon and attended to what was to be attended to after that time.

Q. How long did he remain there?—A. I don't know.

Q. Is the Dixie doing business there to-day?—A. No. sir.

Q. When did it cease?—A. I don't know, sir.

Q. Well, about when?—A. I don't know.

Q. What became of the customers you had down there?—A. I don't know. After I left them I did not know anything more about it.

8791 Q. You don't know anything about that?—A. No, sir.

Q. You don't know whether they went over to the Standard or not?—A. No, sir.

Q. But you stayed there long enough to convert most of that barrel business into a tank-wagon business and then you left?—A. Yes, sir.

Q. Did anybody accuse you, while you were in Durham, of operating in the interests of the Standard Oil Company?—A. I think I heard that; yes, sir.

Q. Heard it pretty often, didn't you?—A. I don't know that I can say I heard it very often.

Q. Buzzing around your ears all the time, was it not?—A. Oh, no; it was not.

Q. Did not the Red "C" Oil Company people circulate the report industriously that you were operating in the interests of the Standard?—A. They might have circulated it; I don't know about their being so industrious in following it up.

Q. Did not every dealer you went to accuse you of it?—A. No, sir.

Q. What ones did not?—A. I could not tell you, but I know every one did not.

Q. You heard it pretty often, didn't you?—A. I heard it; yes, sir.

Q. What did you say when you were accused of it?—A. I told them that it was not so.

Q. You told them that it was not so?—A. Yes, sir.

Q. And you believed it yourself at the time, didn't you?—A. Yes, sir.

8792 Q. Bender had led you to believe that that was not true, had he not?—A. Sir?

Q. Bender had led you to believe and understand that it was not true, had he not?—A. Oh, I could not say whether he had or not.

Q. From what source did you get your information on that subject?—A. I got most of it, of course, from Mr. Bender, but I don't know—I can not say now just——

Q. Just what he said to you?—A. Just what he said to me, or what I said, or how he said it, or what questions I asked him on the subject, or whether I asked him any.

Q. He gave you to understand that you were not working in the interests of the Standard, did he not?—A. I could not state positively whether he did or whether he did not, but that was my impression.

Q. That was your impression?—A. Yes, sir.

Q. You got all of your impressions, didn't you, from Mr. Bender?—A. I might have got some impressions from outside people.

Q. What outside people gave you the impression that you were not working for the Standard?—A. I was running into the trade all the time.

Q. Give us the name of a single person outside of Bender who ever told you that you were not operating in the interests of the Standard. Can you do it?—A. No; I could not do it.

Q. Did anybody except Bender ever tell you that you were not operating for the Standard?—A. I don't know that Mr. Bender did.

8793 Q. Well, you do know, do you not, that you had the impression and the firm belief that you were not working for the Standard or in the Standard's interests?—A. Yes, sir.

Q. That you do know?—A. Yes, sir.

Q. You do know, don't you, that you got your instructions, your authority, your salary, and everything else from Bender, do you not?—A. Yes, sir.

Q. Did you ever tell Bender that they accused you in Durham of operating in the interests of the Standard, or that they accused the Dixie of being operated or controlled by the Standard?—A. I don't know whether I did or not.

Q. What do you mean—that you don't remember?—A. Yes, sir.

Q. Didn't you report to your superior what was said about his company?—A. I might have done so and might not—I don't remember.

Q. You did not try to keep it still from him, did you?—A. I don't know that I had any reason; no.

Q. You had no reason to keep it from him, had you?—A. No.

Q. As a matter of fact, you did report to him, didn't you?—A. No; I did not.

Q. All about that business there, and kept him posted about it?—A. Did I keep him posted about it? Of course.

Q. He had nobody to look to but you, to find out about that business, had he?—A. No, sir.

Q. Then is it not true that you did report to him, either in writing or verbally, that it was claimed by at least some of the dealers in Durham that the Dixie was running in the interests of the Standard?—A. I could not say now whether I did or not.

8794 Q. Didn't you report everything to him that took place concerning your competition and business in Durham?—A. No, I could not say that I would report everything to him.

Q. Everything of importance you did, didn't you?—A. Yes, sir; of course.

Q. You told how the trade was doing there, how you were getting along, didn't you?—A. I would tell him that, and, of course, he knew it from my sales.

Q. How did he know it?—A. He knew it from my sales.

Q. I know, but he did not know what made your sales great or small, did he, unless you told him?—A. Well, I, of course, kept in correspondence with him on the subject.

Q. You kept in correspondence with him on the subject?—A. I would write to him, of course.

Q. How often?—A. Oh, whenever necessary.

Q. You told him how you were getting along there, what customers you were getting and what business you were getting, didn't

you?—A. I may have reported individual customers, or may not, I don't remember.

Q. You told him how you were managing to get the business, didn't you, how you were conducting it?—A. I can not say at this time.

Q. Can you say what you did tell him?—A. No, sir, I could not.

Q. You haven't any idea about it?—A. No, sir, I could not follow that.

Q. You kept him posted as to the opposition that you met there in business, didn't you, and the character of it?—A. Pos-
8795 sibly. I don't know whether I did or not.

Q. Not possibly—did you or didn't you?—A. I don't know.

Q. You don't know?—A. No, sir.

Q. Don't remember anything about it?—A. No.

Q. You said a while ago that you finally, or at one time, surmised that the Standard was at the back of the Dixie and of Mr. Bender?—A. Yes, sir.

Q. But that you did not surmise that until after you left Durham?—A. Yes, sir.

Q. Now, when did you first surmise that?—A. Well, I surmised that—guessed at that—when Mr. Bender introduced me to the Standard Oil Company people and I took a position with him.

Q. Not until you got up there and were introduced to them?—A. Yes, sir.

Q. After you got all through with these bogus companies?—A. Yes, sir.

Q. You were in blissful ignorance all this time?—A. Yes, sir.

Q. And when you got up there and he faced you right up to 26 Broadway?—A. No, sir, I never saw 26 Broadway until this morning.

Q. Oh, that was not the place. Where did he introduce you to the Standard Oil officials?—A. That was in the Maryland Trust Company building in Baltimore.

Q. When he faced you up to them—and introduced you, then it commenced to dawn over you that he had been running these bogus concerns, did it?—A. Yes, sir.

8796 Q. How is that?—A. I think that is when the awakening took place.

Q. And that you had been deceived and had been deceiving the trade—that all dawned over you, didn't it?—A. I don't know that I was thinking about that so much.

Q. Did not that disturb you at all?—A. No, sir; I did not lose any sleep.

Q. It did not make you angry, did it, when you learned that Bender had been imposing upon you all this time?—A. No, sir.

Q. You were perfectly satisfied with it?—A. Yes, sir.

Q. And you did not go back, I suppose, and inform these people that you had been misled in telling them that the Dixie was independent, did you?—A. No, sir.

Q. Did you hold out the Dixie as an independent company when you were on the road?—A. Yes, sir.

Q. Did you know where it got its oil?—A. No, sir.

Q. Didn't you know when you were selling oil, what oil you were selling?—A. I did not know where it came from.

Q. No; but did you know what company refined it?—A. No, sir.

Q. Or what company sold it to the Dixie?—A. No, sir.

Q. What did you tell your customers about that? What oil did you tell them you were selling?—A. I don't know.

Q. What?—A. I can not recall what I told them—what oil I was selling.

Q. Well, you told them what oil you were selling, didn't you?—A. I might have told them I was selling 150 or 120, or whatever I was selling.

Q. Didn't you tell them whether you were selling Standard oil or independent oil?—A. No, sir.

8797 Q. Never told them that?—A. No, sir.

Q. They never asked you that question?—A. I don't recall anything about that at all.

Q. Did you tell them where this oil was refined, or where the refinery was?—A. No, sir.

Q. Did you tell them what refinery it was the product of?—A. No, sir.

Q. Did you tell them whether it was manufactured in the South, or the West, or East?—A. No, sir.

Q. And no customer ever asked you what oil you were selling?—A. As far as I can tell now, I do not know anything about their asking me what oil I was selling.

Q. You were right in territory, were you not, where the independents were fighting—the Red "C" Oil Company and others?—A. They were down there.

Q. They were everywhere that you were, were they not?—A. No, sir.

Q. Nearly everywhere?—A. Yes, sir.

Q. And they were selling their oil, were they not, claiming that it was independent, and that they were independent of the Standard?—A. Yes, sir.

Q. That is the way they got their business, largely, is it not?—A. I don't know, sir.

Q. And you went in there representing the Dixie, and never told anybody what refinery produced the oil?—A. I never heard of the Red "C" telling anybody what refinery produced their oil.

8798 Q. You did not hear the Red "C" men talk very much anyway, did you?—A. I did not come in very close contact with them.

Q. Don't you know that the Red "C" Oil people constantly used as an argument, in favor of selling their oil, that they were an independent concern, and not connected with the Standard?—A. I know that; yes.

Q. Well, how did you sell your oil, if you did not tell them whether you were operating for the Standard or whether you were operating for some independent company?—A. Oh, I told them that I was an independent company, as I told you before.

Q. What did you tell them that for?—A. Because I believed it.

Q. Who told you to tell them you were independent?—A. I don't know that anyone told me to tell them.

Q. Then why did you tell them anything about it? Did they ask you?—A. Why, certainly, if I told them anything, I did it as an argument to sell goods, one way or the other, or to answer questions.

Q. You always told them you were independent?—A. Yes, sir.

Q. Did Bender instruct you to tell them that?—A. I don't remember.

Q. Would you have told them that unless he had instructed you?—A. That was my impression right straight along.

Q. You believed you were selling independent oil?—A. Yes, sir.

Q. Now, tell me what made you believe that?—A. That was just my belief; I can't tell you what made me believe it, at the present time.

8799 Q. You must have had some reason for believing it?—A. I must have had some reason, yes; but I can't tell you what it was.

Q. You got all your reasons, didn't you, and everything else pertaining to that business, from Bender?—A. Oh, no; I did some little thinking myself.

Q. Did you think it out that you were an independent?—A. I could not tell you now how I arrived at that conclusion. I certainly thought so from the time I started with the Home Safety until I finished with the Dixie Oil Company, as I told you a while ago.

Q. That was your impression all the while?—A. Yes, sir.

Q. And wherever you had occasion to say anything upon the subject, you said you were independent?—A. Yes.

Q. You don't know whether Bender told you to say that or not?—A. No; I can not honestly tell you so.

Q. Didn't you ever have curiosity enough to ask Mr. Bender where this oil came from that you were selling?—A. I can not recall of ever having——

Q. Did you ever think about that? Did you ever wonder in your own mind where this oil was coming from?—A. No; I don't know whether I did or not.

Q. Never thought about that. Do you say you never did, or that you don't remember?—A. I don't remember.

Q. When you were on the road, did you notify Mr. Bender that people frequently accused you of being a tool of the Standard?—A. No, sir; I can not recall.

Q. Can not recall it?—A. No, sir.

8800 Q. Do you know whether Bender knew it or not?—A. No, sir.

Q. You did meet that on the road pretty often, didn't you?—A. No, sir.

Q. When you were traveling, didn't you hear it from the dealers and from others that you were accused of being connected with the Standard?—A. I heard it occasionally, but I did not hear it so often.

Q. Didn't you regard that as of enough importance so that you reported it to Bender?—A. I don't know.

Q. Where did you go after you left Durham?—A. To Baltimore.

Q. When was that?—A. That was in the fall of 1903.

Q. And what position were you given at Baltimore?—A. Superintendent of tank wagons.

Q. For what company?—A. The Standard Oil Company.

Q. That is when you learned that you had been operating for the Standard, is it?—A. No, sir.

Q. When was it that you learned that?—A. Some time afterwards.

Q. I thought when you went to Baltimore and were introduced, you surmised then?—A. Yes; I surmised it, but I didn't know it.

Q. Oh, you didn't know it positively, then?—A. No, sir.

Q. Mr. Bender took you there, did he?—A. Yes, sir.

Q. And to whom did he introduce you?—A. I don't know—Mr. Hill or Mr. Bukey. I think it was Mr. Bukey; I am not sure.

Q. Did you met Mr. Goodwillie up there?—A. No, sir.

Q. What other Standard official did you meet there?—A. Mr. West.

Q. He is vice-president?—A. No, sir.

8801 Q. Who else?—A. That is all I think of.

Q. Well, you were taken there by Bender?—A. Yes, sir.

Q. And who hired you?—A. I was under Mr. West.

Q. You were superintendent of tank-wagon deliveries, then, in Baltimore?—A. At Camden and Fulton stations.

Q. You have charge of those stations, as well as being superintendent of tank-wagon deliveries?—A. I have charge of those two stations. They are tank-wagon stations.

Q. Of the delivery at those two stations?—A. Yes, sir.

Q. You marketed the oil, did you, from those stations?—A. Yes, sir.

Q. You had drivers under you, I assume?—A. Yes, sir.

Q. What were your duties?—A. I had general charge of the plant and solicited business and looked after everything about the place.

Q. You had some competitors in Baltimore, I think you said?—A. Yes, sir.

Q. Among those was the Eagle Oil Company?—A. Yes, sir.

Q. Was that an independent company?—A. I thought so at that time.

Q. What do you think now about it?—A. (Laughing.) Well, I do not think it was.

Q. You were led to believe at that time that it was, were you not?—A. I did not know whether it was or not.

Q. What made you think it was independent when you first started in there, Mr. Robinson?—A. The whole Baltimore situation was new to me. I did not know anything else, and I did not have anybody to tell me about it.

8802 Q. It held itself out as an independent, did it not?—A. Yes, sir.

Q. And that is the reason you thought it was an independent, because it claimed to be an independent?—A. Yes, sir.

Q. While you were in Baltimore, did you get acquainted with Mr. L. Blaustein?—A. I met him; yes, sir.

Q. You have met him?—A. Yes, sir.

Q. He was the man that was running the Eagle, was he not?—A. Yes, sir.

Q. Do you know how long he had been running it?—A. No, sir.

Q. Where did you first meet Blaustein?—A. I don't know.

Q. Did you meet him before you went to Baltimore?—A. No, I don't think so.

Q. Never met him out on the road anywhere?—A. No, sir; I don't recall meeting him.

Q. When you first met him he was running the Eagle, was he not?—A. Yes, sir.

Q. How long were you in Baltimore before you found out that the Eagle was not independent?—A. I don't know, sir.

Q. About how long?—A. I really could not tell you.

Q. A year or two?—A. I could not tell you; no. I don't know that I ever did—I never did know positively.

Q. How is that?—A. I never knew positively until recently, and I do not know positively now so far as that goes.

Mr. CAMPBELL. That is, you have seen it in the newspapers?

WITNESS. In the newspapers; yes, sir, that is all I know.

Q. You could not swear to it now, could you?—A. No, sir; I could not swear to it.

8803 Q. Have you a shadow of doubt in your own mind about it?—A. I do not think from what I have read in the newspapers now——

Q. Now, answer my question. Have you a shadow of doubt in your mind about it now?—A. No, sir; not now.

Mr. CAMPBELL. I object to that question.

Q. You did not mistrust that the Eagle was a bogus independent concern until you had been there maybe a couple of years, did you?—A. Possibly; I don't know. I could not say whether it was.

Q. How long after you went there before you met Mr. Blaustein?—A. I don't know really. It might have been a year or two years.

Q. Did you ever talk with him about the business you were in—you were one of his competitors there, as you supposed?—A. I don't know that I ever had very much to do with him.

Q. Didn't you meet pretty sharp competition from Blaustein?—A. Yes; we had sharp competition from Blaustein.

Q. Did you ever talk with him about it?—A. No, sir.

Q. The competition was mighty sharp, was it not?—A. Well, pretty keen for a while.

Q. And yet both of you were run by the Standard Oil Company, were you not?—A. I don't know. I could not swear to it.

Q. You have not any doubt about it, have you?—A. I would not swear to it.

Q. And notwithstanding all that, you now say you had keen competition?—A. Very keen.

Q. What do you mean by keen competition?—A. Well, I mean that we were on the move for business all the time.

Q. Cutting each other's prices?—A. No, sir.

8804 Q. You did not get that keen?—A. No; I could not cut.

Q. You had no authority to cut. If there was any cutting done, it was done by somebody over you, was it not?—A. Yes, sir.

Q. You simply took the price that somebody gave you?—A. Yes, sir.

Q. Who fixed the prices for which you sold your oil in Baltimore?—A. The prices were given to me by Mr. West. I don't know who fixed them.

Q. By Mr. West?—A. Yes, sir; at that time.

Q. That is all you know about that?—A. Yes, sir.

Q. You raised or lowered prices according to instructions from Mr. West?—A. From the special agent, and at that time it was Mr. West when I first went there.

Q. And afterwards who was it?—A. Mr. John M. Walker.

Q. What was the margin between the selling price and the wholesale price in Baltimore when you went there?—A. I don't know.

Q. While you were in Baltimore you were not selling to consumers, were you?—A. No, sir.

Q. You were selling to dealers?—A. Yes, sir.

Q. What companies were selling to consumers in Baltimore?—A. Oh, quite a number.

Q. Who were they?—A. Peddlers. There was a man named C. F. Scheck, Theodore Scheck, J. M. Slimmer, the Puritan Oil Company, the Home Safety Oil Delivery, L. Dohlmer, Charles Hammer, William Hammer, and George Canapp, and others.

Q. They were all peddlers?—A. Yes, sir.

Q. Each of them running one wagon, were they?—A. No;

8805 some of them ran more than one wagon.

Q. Do you know where they got their oil?—A. They got their oil from the Standard Oil Company and the Red "C" Oil Company.

Q. Most of them from the Standard, didn't they?—A. Yes, sir; most of them.

Q. Did you deliver oil to those peddlers yourself, any of them? Did you furnish them?—A. Do you mean by tank wagon or——

Q. In any way? You had charge of two stations there?—A. Yes, sir; I sold to peddlers from both my stations.

Q. And to some of these you have named?—A. Yes, sir.
Q. All of them?—A. Yes, sir; practically all those are in my field.
Q. And do you know whether any of them bought from any other source besides yourself?—A. Yes, sir.
Q. Which ones?—A. The Puritan Oil Company.
Q. Did all the others whom you have mentioned?—A. They did, not buy any from us.
Q. How is that?—A. They did not buy any from us.
Q. The Puritan did not buy any from you?—A. No, sir.
Q. Did all the others whom you have mentioned?—A. They did, most of the time. Once or twice Charles Hammer bought from the Red "C" Oil Company.
Q. You said in your direct examination that the National Oil Company cut prices to a fruit store dealer in Baltimore and got some business away from you?—A. No, sir.
Q. Who was it that you say the National cut prices to?
Mr. CAMPBELL. At Norfolk.
8806 Q. That was in Norfolk?—A. Yes, sir.
Q. How do you know that?—A. I remember it.
Q. Who told you at the time? How did you learn it at the time?—A. Oh, I suppose I first learned it from my driver.
Q. You suppose so. Do you know anything about it?—A. That was the usual way of learning anything of that kind.
Q. Do you remember whether you did or whether you did not?—A. No; I could not swear to it, whether I got it from my driver or not, but I presume that was the way. That was the usual method of getting such information.
Q. That your driver would come and tell you that he had lost a customer?—A. Yes, sir; and I would ask him why.
Q. And he would tell you that the National or some other company had cut the price?—A. Yes, sir.
Q. That is all you knew about it, is it?—A. No, sir; I went to see the man.
Q. Did you go to see this fruit dealer?—A. Of course.
Q. Of course, you say?—A. Yes, sir.
Q. What I want to know is whether you remember that particular case?—A. Yes, sir.
Q. And he told you the same thing, didn't he?—A. Yes, sir.
Q. And he wanted you to come down, didn't he?—A. I don't know whether he did or not.
Q. Well, what did you go there to see him for?—A. I went there first to verify the statement of the driver, and also to see if it was correct. Sometimes things of that kind are not correct.
Q. That is, your driver sometimes misrepresents things?—
8807 A. Well, sometimes he might misrepresent it. I could not tell you just how, but then I always followed up things of that kind, because it was a part of my business.
Q. You went there and saw the man?—A. Yes, sir.

Q. But you would not cut the price down to what they had done?—A. No, sir.

Q. And you did not get him back, did you?—A. Which one are you speaking of?

Q. The first one, the fruit dealer?—A. In Norfolk, on Church street?

Q. Yes.—A. On Main and Church street, or whatever it is.

Q. I don't know. My minutes show simply a fruit dealer.—A. I don't remember whether I got that particular one back or not. I think I did, that particular one.

Q. How did you get him back?—A. The price may not have stayed. I think they cut the price there, if I am correct, a cent a gallon, and they may not have continued it. I don't remember now just how it was I got it back, but I am sure I got that one back.

Q. You do not know any way of getting him back except to make a cut yourself, do you?—A. Oh, you can get them back in other ways. The man might have been disappointed in getting his goods once or twice, and it was absolutely necessary for him to have the goods to use down there, in torches, very largely, on those fruit stands, and naturally they had to have the stuff on hand.

Q. You are merely speculating now. You do not remember anything about that, do you?—A. Certainly, I am speculating, to
8808 a large extent.

Q. All you know is, you got him back?—A. Yes.

Q. You don't know how you got him back?—A. No, I could not say.

Q. How long did the National have this customer?—A. I don't remember.

Q. Did they sell him more than once?—A. I could not tell you; I think they did.

Q. Then there was a dyer and cleaner that you spoke of.—A. Yes, sir.

Q. Did you get him back?—A. Yes, sir.

Q. There was a restaurant keeper there. Did you get that fellow back?—A. Yes, sir.

Q. How long did the independents have him?—A. I can not recall how long.

Q. You were asked on your direct examination whether or not what Mr. C. H. Mahle said about the Standard Oil Company being used as a club to prevent other peddlers from leaving it, was true, and you said that it was not?—A. Yes, sir.

Q. Well, you do not know, do you, what the Home Safety was used for in Norfolk, do you?—A. The only thing I know that it was used for was to sell oil there.

Q. You do not know what the ultimate purpose of Bender was, do you?—A. How is that question?

Q. You don't know what Bender's purpose was in sending you there, do you?—A. No, sir.

Q. You don't know anything about that?—A. I don't know anything more about it except to market oil.

Q. That is all you knew about it?—A. Yes, sir.

8809 Q. And you did not even know at the time that Bender was sending you there under false colors, did you?—A. No, sir.

Q. So it is not strange that you should not know what the purpose was in sending the Home Safety to Norfolk?

Mr. CAMPBELL. I think I'll object to that, as calling for a conclusion, and also upon the ground that it is not within the knowledge of the witness. He should not be asked to speculate upon what somebody else is doing.

The question was read by the stenographer.

A. No; I did not——

Q. You do not pretend to know what the purpose was in sending that company to Norfolk, do you?—A. No, I don't know anything about it.

Q. All you knew about it was that you were sent there by Bender to sell oil?—A. Yes, sir.

Q. At the price that he should give you?—A. Yes, sir.

Q. And that is all you know. What the purpose or intention of Bender was you know nothing about?—A. No, sir; I do not know anything about it.

Q. Why did you say, then, that Mr. Mahle stated what was not true when he said that it was sent there as a club to keep other peddlers from leaving the Standard? Why did you say that?—A. Because I had no instructions to take business away from any particular person or place. I simply got business from where I could. I judged from that—I gave my answer accordingly. I took business from where I could get it.

Q. Was the National Oil Company in business in Baltimore at any time?—A. The National Oil Company?

8810 Q. No; the Southern Oil Company.—A. Yes, sir.

Q. Who ran that company in Baltimore?—A. Mr. Charles H. Mahle.

Q. And it went into the hands of a receiver, did it?—A. Yes, sir.

Q. When?—A. I think that was about eight or nine months ago—recently, comparatively speaking.

Q. Did you say that that was run as a bogus concern by the National?—A. No, sir.

Q. Who bought the Southern Oil Company from the receiver; do you know?—A. No, sir.

Q. I notice here that you said that Mr. J. Charles Raspe was offered half a cent below the regular market by the Red "C."—A. Yes, sir.

Q. How do you know that?—A. From his statement.

Q. His statement to you?—A. Yes, sir.

Mr. CAMPBELL. Did you see an invoice for that, Mr. Robinson; do you remember?

WITNESS. No. Invoices do not tell any tales.

Redirect examination by Mr. CAMPBELL:

Q. I did not quite understand about the displaying of the prices on the wagons of the Home Safety Oil Company at Norfolk while it was under your management. Will you tell again just how that was done?—A. Why, the wagons had a large signboard running the full length of the wagon on top, and on that signboard was painted "Oil," and a space; "Gasoline," and a space; and we had there tin tags, or whatever you might call them, that we would place on a hook
8811 on this signboard, with the current prices.

Q. And those tags would be hooked on in the morning when the wagon started out?—A. No; when they were put on they stayed on until a change in prices. They were fastened on there securely.

Q. In what way were they fastened on?—A. They had, I think, two hooks at either end of the tag—a tag about this size [illustrating]—and little holes in the end to hook into.

Q. And there would be no change made in those tags while the wagon was en route?—A. Oh, no. Sometimes tags were lost, and we painted it on there with a paint brush; but that was what we had at first, when I first got them. I don't know what they use now.

Q. I understood you to say that when you started in business as manager of the Home Safety at Norfolk you began selling oil at the prices then prevailing at that place?—A. Yes, sir.

Q. You did not sell at a price lower——A. No, sir.

Q. Than the current retail price?—A. No, sir.

Q. And that subsequently certain changes did take place in the retail price at Norfolk?—A. Yes, sir.

Q. Your changes were made under instructions given you from Baltimore?—A. Yes, sir.

Q. And were put into effect by you how soon?—A. I think immediately.

Q. And those prices ranged about how much above the price that you paid for your oil?—A. About 2 cents.

Q. Now, can you say whether, when those changes were made, you established the prices for that place, or did your changes
8812 in price correspond with the general change in the retail price throughout that town?—A. Yes, sir. Why, my prices changed when there was a general change.

Q. Your prices changed?—A. Will you repeat that question, please, and let me get it straight?

Q. Did you lead in fixing the prices at Norfolk?—A. I never fixed the prices; no.

Q. Well, would the Home Safety Oil Company make the price, and then be followed?—A. Why, I presume so, yes; on account of the wagons having the sign on there, it would naturally—you might say we led the price. Of course, that is a matter of opinion with certain people.

Q. I understood you to say that your price changed with the change of the cost of your oil?—A. Yes, sir.

Q. That was your observation?—A. Yes, sir; that is my remembrance.

Q. But your experience is, during the entire time that you were operating at Norfolk, that you did not initiate a cut——A. No, sir.

Q. Under the competitor's price?—A. No, sir.

Q. Either upon your own responsibility, or under instructions from your superior officers?—A. No, sir.

Q. And the same is true when you were manager for the Dixie at Durham?—A. Yes, sir.

Q. And when you were traveling salesman in places throughout your territory?—A. Yes, sir.

Q. You testified to certain cut prices made by the National Oil Company at Norfolk, by reason of which you lost certain cus-
8813 tomers, and that you regained some of those customers. Did you, in any case, regain those customers by meeting the cut which the competitor had made?—A. No, sir.

Q. Such customers as you regained you got at your regular open-market price?—A. Absolutely.

Q. And, of course, you did not cut, and would not cut below the competitor's price?—A. No.

Mr. MORRISON. Of course not.

Mr. CAMPBELL. That is all.

Recross-examination by Mr. MORRISON:

Q. I thought you said your prices changed when Mr. Bender told you to change them?—A. They did.

Q. You would not change the price of your oil simply because you had to pay more or less than you had been paying, if you did not get instructions from Mr. Bender to do so?—A. I worked entirely on instructions from Mr. Bender.

Q. You looked to Mr. Bender to settle the price question entirely, didn't you?—A. Yes, sir.

Q. And followed his directions implicitly?—A. Absolutely.

Q. How did he indicate to you when he would want you to change the price—did he write a letter, or come and see you, or did he telegraph or telephone, or what did he do?—A. I don't know. I think he might have telegraphed sometimes, and might have telephoned.

Q. Did you ever telephone him about the price conditions?—A. No; not that I can recall.

Q. Ever write him?—A. Oh, I presume so. I can't say positively.

8814 DALRYMPLE PARRAN, called as a witness on behalf of defendants, being duly sworn, testified as follows:

Direct examination by Mr. CRAWFORD:

Q. Where do you live?—A. Baltimore.

Q. And what is your business?—A. I am a general salesman for the Standard Oil Company.

Q. At the Baltimore office?—A. The Baltimore office; yes, sir; the Baltimore end.

Q. What is the territory where you sell?—A. I sell in what is known as the Eastern Shore of Maryland—six counties.

Q. How long have you been in that position?—A. A little over ten years.

Q. I suppose you sell refined oil and gasoline?—A. Yes, sir.

Q. Where do you get the prices for which you sell those goods?—A. From the special agent, Mr. John M. Walker.

Q. In the Baltimore office?—A. Yes, sir; in the Baltimore office.

Q. Has that been the case during the ten years you have been general salesman?—A. Yes, sir.

Q. Have you at any time had any authority to depart from those prices yourself?—A. No, sir; I have never been allowed to deviate.

Q. Have you, in fact, ever deviated from the prices sent you by the Baltimore office?—A. No, sir.

Q. Have you any competition in your territory?—A. Yes, sir.

Q. Competition in refined oil and gasoline?—A. Yes, sir.

Q. Will you name your competitors there?—A. There is the Red "C" Oil Company, the National Oil Company, Sherwood Brothers——

8815 Q. Where are their headquarters?—A. Baltimore, all that I have mentioned—and the Crescent Oil Company.

Q. Do you remember any others?—A. Yes; the Pure Oil Company.

Q. That is the Pure Oil Company of Wilmington?—A. Of Wilmington, Delaware; yes, sir.

Q. Any others?—A. There was at one time the Southern Oil Supply Company.

Q. How about the Crown?—A. The Crown Oil & Wax Company.

Q. All of those——A. All of those are competitors.

Q. All of those sell more or less in your territory, do they?—A. Yes, sir.

Q. And have done so for a considerable time, a number of years?—A. Some of them only recently, most of them for a number of years—ever since I have been with them.

Q. What has been the practice in your territory in regard to changes in price? Have you ever, either individually or under direction of your superiors, cut the competitor's price?—A. No, sir.

Q. What has been the practice?—A. We aim to keep on a line with him.

Q. Have there been any instances, to your knowledge, where competitors have cut the Standard's price?—A. Yes, sir.

Q. What do you do under such circumstances when it comes to your knowledge?—A. I am not allowed to cut the price to meet him, but I am supposed to exhaust the case. I go right to the fountain head. I go right to the merchant.

Q. You mean exhaust the information, do you?—A. Exhaust the information; yes, sir.

8816 Q. And when you get the information, or get the best information you can, what do you do?—A. I write home to my headquarters.

Q. You report it, do you?—A. Yes, sir. They usually instruct me to get a sample of the goods. They do not reduce the price unless they have good reason for it, to meet the competitor. We sell it on quality.

Q. If the price in such a case is finally reduced, it is reduced by the orders you get from your superior?—A. That is the idea, sir.

Q. And to what point is it reduced?—A. To meet the competitor.

Q. That is, you mean to the same price that your competitor had previously fixed—is that what you mean?—A. Yes, sir; that is what I mean.

Q. And not below it?—A. Not below it, sir.

Q. Are you always authorized to meet the price?—A. No, sir; I can cite instances when I have not been, when they would not give me authority to meet the price.

Q. Have you any instructions as to what pains you shall take to ascertain whether a cut has been made or not?—A. Yes. I usually go to the merchant, get on the good side of the merchant. The merchant does not hesitate to give me the information.

Q. I asked you whether you had any instructions as to the pains you were to take. Have you any instructions from your superior about taking pains?—A. No, sir; no special instructions.

Q. But you do take pains to get the information?—A. Oh, yes; because I am held responsible for the business.

8817 Q. Now, can you recall any specific instances where you know that one of your competitors has cut the Standard's price for the same class of goods in your territory?—A. Yes, sir.

Q. Mention any instances that occur to you.—A. I know of one instance where the Red "C" Oil Company shipped to their commission agent at Secretary, Maryland, 10 barrels of oil. It was consigned to their agent. The agent did not live there, and he made an arrangement with some hauler to deliver oil to any of the merchants as they wanted it, and this oil did not go very rapidly. It was sold because the company gave good facilities. When 5 barrels were sold, the others stayed there a long while, the remaining 5 barrels. So the commission agent of the Red "C" Oil Company went there and offered a commission equivalent to the freight, rather than have the oil returned to Baltimore.

Q. This, you say, took place at a place called Secretary, Maryland?—A. Yes.

Q. Where is it?—A. It is a shipping place to East Newmarket.

Q. Where is that?—A. It is on the eastern shore of Maryland.

Q. And when did it happen?—A. About June, 1908.

Q. Of this present year?—A. Yes, sir.

Q. Who were the customers to whom this commission agent sold the oil?—A. E. Holland & Co. and W. J. Crowe.

Q. Of what place?—A. Those two people are located at East Newmarket, Maryland, about a mile from Secretary.

Q. Had you sold them previously?—A. Yes, sir; they had been regular customers of the wagon.

Q. What was the Standard's price at that time?—A. 9¼ cents.

8818 Q. Do you know the name of this commission agent?—A. Yes, sir.

Q. What was it?—A. G. W. Bradshaw, who lives at Cambridge, Maryland.

Q. At what price did he sell the first 5 barrels?—A. He sold the first 5 barrels at our price.

Q. And then the last 5 barrels?—A. He gave them a concession. The merchants told me that themselves, that rather than return the oil, he made them a concession.

Q. How much was the concession?—A. He told them that the concession was equivalent to the freight. I quizzed him. I said "Did it amount to a half cent a gallon?" He said "Yes." He did not say how much more.

Q. Did you make any change in your price in consequence of that?—A. No, sir; our prices are the same to-day as they have been for a year.

Q. And the company made on change in the price?—A. No, sir.

Q. Do you recall any other instance?—A. Yes, sir.

Q. State where it was first.—A. At Northeast, Maryland. Sherwood Brothers sold J. A. Roney 3 barrels of oil, at 10 cents a gallon, f. o. b. Baltimore. This oil netted that merchant a cent and a quarter less than our price.

Q. What was your price there at that time?—A. Our price there is 10 cents.

Q. The nominal price to Sherwood Brothers was also 10 cents, was it?—A. The nominal price was 10 cents; yes, sir.

Q. What made the difference?—A. Well, there was this difference: take off the empty barrel. They offered a dollar and a quarter for the empty barrel when we gave our regular market price,

8819 which was $1.20. They were giving five cents more for empties. Deduct the allowance for the empty barrel from the price and add the freight, and it will make a difference of a cent and a quarter cut.

Q. You mean taking the freight into consideration?—A. Yes, sir; adding on the freight, say 14 cents a hundred, or 56 cents a barrel.

Mr. MORRISON. The dealer paid the freight, did he not?

Q. Did the dealer pay the freight charge?—A. No, sir; the freight was paid by the merchant.

Mr. MORRISON. He said f. o. b. Baltimore, Maryland.

WITNESS. F. o. b. Baltimore.

Q. Then, the merchant, the person to whom it was consigned, paid the freight?—A. The consignee.

Mr. CAMPBELL. Let us see just how you figure that out.

WITNESS. Figure on the basis of 100 gallons as an illustration. 100 gallons, at 10 cents a gallon, is $10. Now, 100 gallons represents two barrels. Multiply 56 cents a barrel, or 14 cents a hundred, that it $1.12.

Q. What is the $1.12?—A. $1.12 represents the freight on two barrels of oil. The easiest way to reach it is to figure on the basis of 100 gallons.

Mr. CAMPBELL. That is right. Go ahead.

WITNESS. You get 8 and $\frac{88}{100}$. Add on that—I mean deduct from that—let us see what the freight—hold on, what was I thinking about? That should have been added on. 11 and $\frac{12}{100}$. Of course, add on the freight. Now deduct from that——

Mr. MORRISON. You mean deduct the freight?

Mr. CAMPBELL. You are adding the freight, too.

8820 WITNESS. I am adding the freight. That is proper. That makes 11 and $\frac{12}{100}$. Now deduct for the empty barrel. On the four empty barrels which this party shipped back the freight was 25 cents. That is a fraction over 6 cents. Suppose we call it 18 cents—a fraction over 18—that is $1.18 net on each empty. Multiply that by 2 and it would be 2.36. Take 2.36 off your price, that is 8.76; or figuring roughly about 8 and $\frac{3}{4}$; in other words, a cent and a quarter less than our price.

Q. How was the Standard delivering oil to the same parties?—A. The Standard was delivering oil from the tank wagon.

Q. So there was no question of freight there?—A. No, no question of freight whatever.

Q. Without going into so much detail as you have, the substantial point you mean to make is that they sold the oil at a nominal price of 10 cents a gallon?—A. Yes, sir.

Q. Which on 100 gallons would cost $10? That is to say, by adding the freight, $1.12 freight for the two barrels, making $11.12: the freight which should be deducted, $2.36 is the return price of two barrels?

Mr. MORRISON. That is objected to as leading and suggestive.

Mr. CRAWFORD. I am simply rehearsing what the witness has said, only I am trying to condense it. Is that what you mean?

Mr. MORRISON. That is incompetent.

Q. Leaving, as you said, $8.76. Is that what you have said?—A. Yes, sir; that is the idea, net.

Q. As the cost of 100 gallons?—A. The net cost of 100 gallons.

8821 Q. I simply wanted to be sure that this thing is clear. Do you recollect an instance at Perryville, Maryland, of a cut by a competitor?—A. Yes, sir, I recall. The Red "C."

Q. When was it?—A. The Red "C" Oil Company's commission agent——

Q. When was it?—A. About July, 1907. That is one transaction. They were selling gasoline there at 13½ cents a gallon in bulk, when our price from the wagon was 14 cents a gallon. That covers it.

Q. Do you recollect another instance at that same town of Perryville that happened a year earlier?—A. Yes, sir. About a year prior to that the same merchant bought about 500 gallons from the Red "C" Oil Company in consideration of credit and discount.

Q. What do you mean by that?—A. Our terms from the tank wagon are cash, whereas the competitor offered it to him on 30 days' time.

Q. What do you mean by the discount?—A. They offered 1 per cent discount and paid the men for hauling the oil from the depot.

Q. Did what?—A. They hired this man to haul their oil from the depot to his place.

Q. You mean they hired their customer to do it?—A. They hired their customer to haul the oil from the depot to his store.

Q. That gasoline was delivered in what—barrels?—A. That gasoline was delivered there in barrels, but it was not sold to them in barrels.

8822 Q. What was it hauled in?—A. It was hauled in barrels.

Q. But the hauling was really done by the Red "C" Oil Company, was it?—A. Yes, sir; their commission agent.

Q. Do you recollect a transaction at a place called Easton, Maryland, of the Red "C" Oil Company with a customer named Wright?—A. Yes, sir. Martin Wright in the latter part of 1907, or the early part of 1908, bought ten barrels of oil from the Red "C" Oil Company. The brand was White "C;" price to be billed at the time when shipped, and they offered a premium inducement of a tank. This merchant refused——

Q. What do you mean by "offered a premium of a tank?"—A. They offered a 60-gallon storage tank, if he would take the oil, as an inducement to him to take the oil.

Q. Do you mean they offered to give him that tank?—A. At first they offered to sell him the oil and charge him for the tank. Finally he said, "Why, I do not want any tank," and they finally sent him a credit equivalent to the value of the tank, $4.50.

Q. You mean he did not take the tank at all?—A. No, sir; he did not take the tank at all. They credited his account by the value of the tank, $4.50.

Q. How did the nominal price at which the oil was sold in that instance compare with the price of the Standard?—A. That oil was sold at 13 cents, whereas the S. O. Company's Pratt's Astral oil, a high-grade oil, was sold to all the trade at 12 cents—to everybody.

Q. Was this oil sold on that occasion by the Red "C" Oil
8823 Company, an oil under any brand?—A. Yes, sir.

Q. What was the brand?—A. White "C."

Q. The nominal price was a cent higher than the Standard's high-grade oil, and there was a rebate of $4.50?—A. $4.50 was given; yes, sir.

Q. On the ten barrels?—A. Ten barrels. That offended the merchant.

Q. Do you recollect an occurrence in a place called Galena, Maryland, with a Mr. W. W. Dempsey?—A. Yes, sir.

Q. When was that?—A. That was the latter part of 1907 or the early part of 1908. Mr. Dempsey bought ten barrels of White "C" oil at 13 cents, with the inducement of a tank.

Q. From whom had he previously bought oil?—A. He had previously bought all his oil from the Standard Oil Company tank wagon.

Q. Has the National Oil Company of Baltimore sold any oil in that territory?—A. Yes, sir; they have sold, since May, 1908, about eight barrels of oil.

Q. At what price have they sold it?—A. They have sold it at 11 cents, which was the S. O. Company's price, in Baltimore, in barrels; but they offered a tank free, as long as the man would buy their oil.

Q. To whom are such sales made?—A. I recall several cases. They sold L. R. Hubbard, St. Michaels, Maryland, and Scott Wilson, of Rising Sun, Maryland, and S. B. Tosh, of Colora, Maryland.

8824 Q. Do you know any thing about a transaction at Cambridge, Maryland, by the Red "C" Oil Company?—A. Yes, sir. They could not get the business on the same basis, so, in order to increase their business, they offered the trade one per cent discount and a line of credit.

Q. How did their nominal price compare with that of the Standard?—A. Their nominal price was the same.

Q. You say they offered one per cent discount?—A. A credit of from 10 to 30 days.

Mr. CAMPBELL. How was that discount made?

WITNESS. A discount of one per cent. Some say they got two. I saw a bill where they got one.

Q. And that was allowed to them in their settlement, was it?—A. Yes, sir.

Mr. MORRISON. One cent or one per cent?

WITNESS. One per cent.

Q. When did this happen? Or, if it happened more than once, tell it.—A. This has been going on three or four years, anyhow.

Q. Can you name any customers to whom the Red "C" Oil Company have sold oil under those circumstances or on those terms?—A. Yes, sir; D. H. Thomas, Cambridge, Maryland; J. C. Daly, A. J. Dunn, and many others.

Q. Had those persons you named previously bought oil from the Standard Oil Company?—A. Yes, they had bought more or less, and consequently that was a big inducement.

Q. Did you lose them as customers?—A. Virtually lost them; yes, sir.

8825 Q. How about the other customers whom you have named, to whom these various inducements were given, by either a tank or concessions in price? Had they previously bought from the Standard Oil Company?—A. Yes, sir.

Q. Did you lose any of them in consequence of the concessions that were given to them?—A. Lost their trade until that ten barrels was consumed.

Q. How about these people to whom tanks were given?—A. That is what I have reference to; but then most of them have come back to the company.

(The hearing was here adjourned until the morning of Monday, September 14, 1908, at 10.30.)

8826 ROOM 715, CUSTOM-HOUSE, NEW YORK CITY,
Monday, September 14, 1908—10.30 a. m.

The hearing was resumed before the special examiner, Hon. Franklin Ferris, at the above time and place.

Present: On behalf of the petitioner, Mr. Frank B. Kellogg and Mr. Charles B. Morrison.

On behalf of the defendants, Mr. Moritz Rosenthal, Mr. F. L. Crawford, and Mr. Douglas Campbell.

DALRYMPLE PARRAN, recalled.

Cross-examination by Mr. MORRISON:

Q. You are delivering from the tank wagon? Your deliveries are all made from tank wagons, are they not?—A. Yes, sir; largely.

Q. How is that?—A. Not all deliveries are from tank wagons. I sell some barrel goods.

Q. Yes; but in all these cases you have mentioned, where the price was different——A. Yes, sir.

Q. Your deliveries were made in tank wagons?—A. Yes, sir.

Q. And the Red "C's" deliveries were made in barrels?—A. Yes, sir.

Q. Isn't there always a slight difference in the price between barrel deliveries and tank wagon deliveries?—A. The cost depends upon freight and everything of that kind.

Q. I know; but I mean the customer prefers the tank-wagon
8827 delivery; and if everything else is equal he will take it in tank wagons before he will bother to handle the oil in barrels, will he not?—A. Yes, sir.

Q. So that, in order for the dealer who is delivering in barrels to get any trade he has got to make some slight concession, hasn't he?—A. Not always.

Q. Sometimes he can get it without?—A. Yes, sir.

Q. But ordinarily that is not true, is it?—A. (After some hesitation.) Some trade prefer one way and some prefer to deal another.

Q. Do you mean to say that there are some who prefer to have oil delivered in barrels?—A. Yes, sir.

Q. What class of trade is that?—A. That is store trade.

Q. As a general proposition they prefer the tank-wagon delivery, don't they?—A. Yes, sir; generally.

Q. You are held responsible, aren't you, for the trade in your district?—A. Yes, sir.

Q. Your employers look to you to keep up the gallonage, don't they?—A. Yes, sir.

Q. Did you have reports sent to you, showing you the competitive shipments into your territory, or given to you at the office?—A. Not for a long while.

Q. A long while after what?—A. Ever have competitive shipments—notices? Yes, sir; I had notices.

Q. Not notices, but you receive information, don't you, from your office of competitive shipments into your territory?—A. Not now.

Q. How long since?—A. That has been several years.

Q. Is it one or two years?—A. Fully two.

8828 Q. You ceased along about the time of the investigation by the Bureau of Corporations, didn't you—about the time that commenced?—A. It was long before that.

Mr. CRAWFORD. He said long before that. You did not catch his answer, I think.

WITNESS. Long before that; yes.

Q. Long before what?—A. Long before 1905.

Q. When was it that you received the last information of competitive shipments into your territory?—A. That was before the Baltimore fire; I know that. That was 1904.

Q. Didn't you receive information, on a regular blank, with a column left for remarks, upon which you entered the remarks concerning the particular customer and the deal that was mentioned in the statement?

Mr. CRAWFORD. When?

Mr. MORRISON. During the time he was getting information of competitive shipments.

Mr. CRAWFORD. He said he got nothing since before the Baltimore fire.

WITNESS. I got nothing since before the Baltimore fire.

Mr. CRAWFORD. Make your time clear.

WITNESS. I got nothing since before the Baltimore fire. That was in 1904.

Q. You say you never filled out the "remarks" column in any of these statements sent to you before 1904?—A. Yes, sir; I filled out some reports before 1904.

8829 Q. When did you cease filling out that kind of reports?—A. That I could not tell you. I can not recall the date.

Q. About how long ago was that?—A. I suppose in the neighborhood of five years.

Q. You travel out from the Baltimore office, don't you?—A. Yes, sir.

Q. And you are there at the Baltimore office when you are not on the road?—A. No, sir; I have not any business at the Baltimore office.

Q. At what office is your headquarters?—A. I have a home in Baltimore, and they communicate with my home or else somewhere on the road, wherever I happen to be.

Q. You get frequent communications from them, do you not?—A. Yes, sir.

Q. How do you learn now when competitive oil goes into your territory?—A. I learn it through our tank-wagon subagent and myself.

Q. Of the customer?—A. Yes, sir; from the customer.

Q. You spoke about a case at Secretary, Maryland, where there were some concessions made by the Red "C" Oil Company on a 10-barrel shipment, didn't you?—A. Yes, sir.

Q. Now, as I understand you, all there was to that, a 10-barrel shipment was made to a merchant there who was selling on commission?—A. No, sir; it was made to their commission agent.

Mr. CRAWFORD. Where was this?

Q. At Secretary, Maryland. He sold the first five barrels for the same price for which you were selling, didn't he?—A. Yes, sir.

Q. And delivered it in barrels?—A. He engaged a hauler, and it was pumped from the barrels into the storekeeper's tank.

8830 Q. It was delivered in barrels, was it not?—A. It was delivered in what we call bulk—it was delivered in bulk.

Q. And the other five barrels, you say, he was not able to sell?—A. Yes, sir.

Q. And it stood there for a long time?—A. That is right, sir.

Q. In the meantime, had you seen the customer?—A. Oh, yes; I presume I had seen the customer—I don't know.

Q. To whom did he sell the first five barrels?—A. He sold some to these two parties.

Q. What two parties were they?—A. W. J. Crowe and E. Holland & Company.

Q. After he sold the first five barrels, did you make a sale to these men?—A. Yes, sir.

Q. You sold to them?—A. Our tank wagon sold to them.

Q. You took the order, didn't you?—A. No, sir; it was sold direct from the tank wagon.

Q. This commission agent, as I understand you, was not able to dispose of the other five barrels?—A. That is right, sir.

Q. And how long did he have them on hand?—A. I suppose a matter of sixty days.

Q. Then, to get rid of those, he offered a commission, as I understand you, equivalent to the freight from Baltimore to this town?—A. Yes, sir.

Q. On the theory that he would rather throw off that freight than send the oil back. That is the fact, isn't it?—A. That is the fact, sir.

Q. And that is all there is to it?—A. There was a cut—

8831 the oil netted those people cheaper than the tank-wagon rate.

Q. Answer my question. That is all there is to it, isn't it?—A. No, sir; I can't see it.

Q. What more is there to it, now, than that this man threw off the freight rather than to ship the oil back to Baltimore?—A. In doing so the price netted the merchant less money than our price.

Q. I am not talking about results. Conceding that, that is all there is to it, isn't it?—A. I have stated the point.

Q. You have stated all there is to it, haven't you?—A. What I have just now said was so.

Q. What is that?—A. That it was a cut price.

Q. Conceding that, you have told in what the cut price consisted, haven't you, and all there is to it?—A. The cut price consisted of $\frac{5}{8}$ of a cent a gallon.

Q. $\frac{5}{8}$ of a cent—that was just the freight back to Baltimore?—A. Yes; the freight back to Baltimore.

Q. After the oil had stood there about sixty days. Had not the Red "C" any other customers in that town?—A. No regular customers.

Q. Were there any other persons buying oil there except these two customers that you have spoken of?—A. Yes, sir; there were others.

Q. They were your customers, were they not?—A. Largely.

Q. You had most of the business in that town, hadn't you, and always have had?—A. Yes, sir.

Q. You spoke of an instance at Perryville, Maryland, where the Red "C" Oil Company sold gasoline at 13½ cents, and
8832 your price was 14?—A. Yes, sir.

Q. When was that?—A. That was in July, 1906.

Q. How much of a sale did they make at that price?—A. More than 500 gallons.

Q. Was it all made at one sale?—A. No, sir.

Q. All made to one dealer?—A. No, sir.

Mr. CRAWFORD. Was that oil or gasoline you are referring to?

WITNESS. That was gasoline.

Q. Was that shipped in there in barrels by the Red "C"?—A. Yes, sir.

Q. And how was your company delivering gasoline to the dealers at that time?—A. By tank wagon.

Q. How do you know that they sold this for 13½ cents a gallon?—A. I saw the invoice.

Q. Who showed it to you?—A. The merchant himself.

Q. Was that a sale of the entire 500 gallons in one invoice?—A. No, sir; it did not cover all of it.

Q. How many invoices did you see?—A. I saw several.

Q. All shown to you by the same merchant?—A. By the same merchant.

Q. Who was he?—A. A. H. Owens & Bro.

Q. Had they been customers before that?—A. Yes, sir.

Q. And were they afterward?—A. Partly, only.

Q. You have been selling them gasoline since that, haven't you?—A. Yes, sir; since and before.

Q. At the same price—14 cents?—A. Yes, sir.

Q. You maintained your price right along?—A. Yes.

Q. You did not change?—A. No, sir.

8833 Q. How did you get this customer away from them if you did not come down to his price?—A. I talked the quality of the goods.

Q. You satisfied him, did you, that yours was the better quality?—A. Yes, sir.

Q. If yours was the better quality, then it might have been worth half a cent more a gallon, might it not?—A. He did not consider it so.

Q. But you talked him into buying your oil or your gasoline at the same price?—A. He only bought a very small quantity from us, to encourage our wagon to come.

Q. He has been buying of you ever since, hasn't he?—A. A very small quantiy.

Q. Does he buy more of the Red "C" than he does of you?—A. He has about divided it since then.

Q. Paying them 13½ and you 14?—A. The prices are the same now.

Q. Did you come down to 13½?—A. The market price was changed.

Q. How long did this half-cent difference prevail?—A. Better than thirty days.

Q. About thirty days. Do you know whether that oil had been shipped in there to their commission merchant?—A. Yes, sir; to their commission agent.

Q. Your gasoline was better than theirs, was it not?—A. He did not consider it so.

Q. No, no; I am asking you.—A. He was the buyer.

Q. No, no; I am asking you. Was not yours a better quality than his?—A. Well, he did not buy it from us on that——

8834 Q. Oh, no, answer my question.—A. I considered my goods equally as good as his.

Q. You told him they were better, didn't you?—A. No, sir; I did not tell him they were better.

Q. You did not? I thought you said you got him back on the quality of the gasoline?—A. I talked the quality of the goods; yes, sir.

Q. If you talked the quality of the goods, you represented to him, didn't you, that yours were better quality than the Red "C"?—A. No; I talked that our quality of goods was as good as his—equally as good.

Q. Then, if there was no difference in the quality, why should he pay you 14 cents and pay the Red "C" 13½?—A. He was getting credit from the Red "C"—thirty days' credit—and our terms were cash.

Q. That is the reason that he stuck by the Red "C"?—A. Yes, sir.

Q. You do not regard thirty days as cash, do you, in your business?—A. No, sir.

Q. When you say cash you mean cash on delivery, not thirty days' time?—A. That is the idea.

Q. And the Red "C" gave them thirty days' time, did they?—A. Their commission agent gave that time.

Q. Is that the way you accounted for the half-cent difference in the price?—A. No; they ran—they wanted to get the business.

Q. I know, but did he sell this gasoline for 14 cents a gallon and give time, or did he sell it for 13½ and give time?—A. For 13½ and gave time.

Q. So he not only sold it for 13½, but he gave them thirty
8835 days' time?—A. He gave them credit. The time varied.

Q. That was something of an inducement, too, was it not?—A. Yes, sir.

Q. And still you were able to get back this customer, without telling him that your gasoline was better than the gasoline of the Red "C?"—A. Yes, sir.

Q. Did you urge any other consideration to him than the quality of the goods?—A. No, sir.

Q. And all you said about that was, that yours was just as good as his?—A. Yes, sir.

Q. That was as far as you went, was it?—A. Yes, sir.

Q. You did not tell him it was any better?—A. No, sir.

Q. And you did not think it was any better, did you?—A. Well, I was not going to laud my opponent's goods.

Q. What is that?—A. I said I was not going to underrate my own goods.

Q. No, but in some way, by talking the quality of goods, and talking that only, as I understand you, you got this customer back, or got a part of his trade. That is right, isn't it?—A. It was not only on account of the quality of the goods.

Q. What else did you urge?—A. On account of my standing with the man.

Q. Your what?—A. Our standing with the man, our treatment.

Q. Was your standing with him any better than it was when the gasoline was sold by the Red "C" Company? Did your standing with him improve any after that sale?—A. The standing did not improve—that is, I can't say that the standing had improved. It remained the same.

8836 Q. Then there was nothing in that, was there, to induce him to go back to buying gasoline of your company?—A. The price does not always remain the same.

Q. What is that?—A. The price does not always remain the same.

Q. As I understand you, you got together on prices within thirty days there?—A. Well, we——

Mr. CAMPBELL. That is objected to upon the ground that the witness has not so testified.

Q. Didn't you so testify——A. No, sir.

Q. That this difference in price remained only about thirty days?—A. No, sir; I will not say that the difference only remained thirty days.

Q. Didn't you say about thirty days?—A. About thirty days.

Q. Didn't you testify to that?—A. This difference prevailed about that length of time.

Q. Yes, that is the way I understood you. Then you got together on the price—either you went down or the price changed?

Mr. ROSENTHAL. Do you mean the prices got together or the parties got together?

Q. The prices got together, or the price changed, so that you were selling at the same price?—A. Yes, sir.

Q. You spoke about a case here in which Martin Wright bought some Red "C," or some White "C" oil of the Red "C" Company, and they offered a 60-gallon storage tank?—A. Yes, sir.

Q. How do you know that?—A. The merchant told me.

Q. Mr. Wright?—A. Yes, sir.

Q. That was here some time this year?—A. Yes, sir. That is, that purchase was made the latter part of 1907.

8837 Q. Did your company give storage tanks?—A. No, sir.

Q. Did they ever give any at Winchester?—A. That is out of my field. I don't know anything about that.

Q. You are not in that field?—A. No, sir.

Q. You never gave any in your field, and your company never gave any?—A. No, sir.

Q. Did you finally get Wright's trade?—A. Some of his business.

Q. Did you have it all before that?—A. No, we only had some, only part of it before.

Q. So you got as much since that as you got before, didn't you?—A. We have gotten more.

Q. Notwithstanding this concession that was offered?—A. Yes, sir.

Q. Do you know what price the Red "C" quoted their White "C" oil at to Wright?—A. Yes, sir.

Q. What price?—A. 13 cents.

Q. What were you selling for—15 cents?—A. No, sir.

Q. What were you selling for?—A. Selling at 12 cents. We were selling Pratt's Astral oil at 12 cents.

Q. Was that the same quality of oil?—A. It is the best grade of oil we sell.

Q. Well, that is as good as the White "C" oil, isn't it?—A. That depends—that is a matter of judgment.

Q. Well, I am asking for your opinion about it. You regard it, don't you, as the same grade of oil?—A. Yes, sir.

Q. You were selling for 12, and he was selling for 15—do I understand you right?—A. No, sir; he was selling for 13.

Q. For 13—a cent more than you were?—A. Yes, sir.

8838 Q. And he was delivering from barrels?—A. Yes, sir.

Q. And you were delivering from tank wagon?—A. No, sir.

Q. How were you delivering?—A. In the same way.

Q. You were delivering in barrels, too?—A. Yes, sir.

Q. Then, the concession consisted in the $4.50 which was allowed him in lieu of the tank, which he did not want?—A. Which he did not want.

Q. Yes; that is right, isn't it?—A. And also they talked their goods as being better.

Q. Yes; but I am asking now in what the concession consisted?—A. $4.50.

Q. But he was getting a cent a gallon more for his oil—was it gasoline or oil?—A. Oil.

Q. Wasn't he?

Mr. CRAWFORD. Red "C" oil you are talking about?

Q. Yes; the Red "C."—A. Yes; they were getting a cent more. That is, they were getting a cent more less this tank.

Q. Yes; I know; the tank was taken out.—A. That $4.50.

Q. How large an order did Wright give to the Red "C" Oil Company at that time; for how many gallons?—A. 500 gallons.

Q. He was paying a cent more a gallon than he had to pay for your oil, wasn't he?—A. Yes; he paid a cent more, because——

Q. That would be about $5, wouldn't it, on that one order?—A. $5; yes, sir.

Q. So, when you come to figure it all out he got a $4.50 allowance on account of the tank, but he paid $5 more for the oil that he would have had to pay if he had bought of you?—A. He would have bought the oil from them without the tank.

8839 Q. What is that?—A. He would have bought the oil from them without the tank.

Q. How do you know it?—A. He so stated.

Q. He told you he would have bought it of them anyway?—A. Yes, sir.

Q. So the tank business did not cut any figure in that deal, did it?—A. Yes, sir.

Q. How?—A. Well, the tank provoked him.

Q. What is that?—A. He got provoked at the transaction.

Q. Oh, he did not like that?—A. No, sir.

Q. He took the $4.50, didn't he?—A. He received a credit of $4.50.

Q. And he accepted it, didn't he? He did not send the money back?—A. They did not offer it to him willingly.

Q. How is that?—A. They did not offer it to him.

Q. Who did not offer it to him?—A. The Red "C."

Q. How did he get it, then?—A. He demanded it. He refused the tank.

Q. He demanded what; the $4.50?—A. The $4.50.

Q. He would not take the tank?—A. No, sir.

Q. He was dead willing to take the money, the price of the tank, was he not?—A. They offered it to him rather than lose his business.

Q. But you said that provoked him, didn't you?—A. So it did provoke him.

Q. And it really hurt the Red "C" more than it helped them, didn't it?—A. What do you mean? What hurt them?

Q. Offering this tank to Mr. Wright.—A. There was a mis-
8840 understanding in the transaction right through. He did not want the tank in the first place.

Q. He did not want it?—A. No, sir; he wanted its equivalent.

Q. And he finally settled the matter by taking $4.50, the value of it, was not that right?—A. They gave him the $4.50 rather than lose him—lose his business.

Q. Then he wanted that $4.50, didn't he?—A. Well, if they had not given it to him he would not have resorted to anything.

Q. He would not what?—A. He would have discontinued dealing with them.

Q. If they had not given it to him?—A. Yes.

Q. After they had given him the $4.50 on that order of oil he paid 50 cents more than he would have had to pay you for the same oil, didn't he?—A. No, sir; I won't say for the same oil.

Q. Well, for the same grade of oil and the same quality?—A. I never tested their oil.

Q. Do you mean to say now that your oil that you were selling there was not as good as the oil that was being sold there by the Red "C" Oil Company?—A. They had not been marketing this oil there to this party.

Q. Oh, I am not asking you that. What brand were you offering there at 12 cents?—A. Pratt's Astral.

Q. Now, do you regard the Pratt's Astral oil as good as the White "C" oil?—A. I regard it, but it is not a question of what I regard.

Q. That is the question now. I want your opinion about it.—A. I sell Pratt's Astral on its merits.

8841 Q. I am not asking you that. I am asking you whether, in your opinion, Pratt's Astral oil is as good an oil as the White "C"?—A. Yes, sir.

Q. Sells for the same price in the market, doesn't it?—A. Sells for the same price?

Q. Yes; in the market.—A. No, sir; it does not sell for the same price.

Q. Which sells for the higher price?—A. White "C" sells for 13.

Q. You mean in this particular case?—A. Yes.

Q. I mean generally in your markets, over your territory generally.—A. Theirs sells for more.

Q. Theirs sells for more?—A. With the consideration of a tank.

Q. You are talking about the Wright transaction now, aren't you?—A. Yes, sir.

Q. Now, leaving that aside, generally in the markets in your territory where you come in competition with the White "C" brand, are you not selling for the same price that the White "C" is sold for?—A. They have never made any sales without consideration, without this inducement.

Mr. CRAWFORD. You mean the inducement of the tank?

WITNESS. Yes; the inducement of the tank.

Q. And offering that inducement, do they sell for the same price or do they charge a cent more when they give the tank?—A. They charge a cent more.

Q. Assuming now that the Pratt's Astral and the White "C" are the same grade of oil, this man, after all, lost 50 cents on that deal by buying of the Red "C" Company, did he not?—A. Yes, sir.

8842 Q. And that is all there is to that concession?—A. Well, there was misrepresentation.

Q. What was the misrepresentation? Let us know about that, if there was any.—A. The sale was made and then he declined to receive this—told the Red "C" agent at the time that he did not want the tank.

Q. Yes, I understand all about that. You have told that before, haven't you?—A. Yes, sir.

Q. And the Red "C" man, to settle up with him, finally paid him the $4.50 instead of delivering him the tank?—A. That is right, sir.

Q. That is the fact, isn't it?—A. Yes, sir.

Q. Where is your misrepresentation that you are talking about?—A. They did not voluntarily give him the $4.50.

Q. The Red "C" did not?—A. No, sir.

Q. They stood out about it?—A. Yes, sir.

Q. They wanted him to take the tank, didn't they?—A. Yes, sir.

Q. And he would not do it—is that right?—A. He would not do it, because he claimed that was not the agreement.

Q. And to compromise and settle the matter up, the Red "C" paid him the $4.50 in money. Now, that is all there is to it, isn't it?—A. That is all.

Q. Now, you say that at Cambridge, Maryland, they got the business there by allowing a line of credit, didn't you?—A. Yes, sir; largely.

Q. Largely. What brand were they selling there?—A. What brand of oil?

Q. Yes.—A. They were selling the Columbia oil.

8843 Q. And what brand were you selling?—A. Aladdin.

Q. Are they about the same quality of oil?—A. Yes, sir.

Q. You were selling for cash and they extended a credit of from 10 to 30 days, is that right?—A. They gave a credit; yes, sir.

Q. And sold at the same price?—A. Sold at the same price, less 1 per cent discount.

Q. What do you mean by that—1 per cent discount?—A. 1 per cent. They gave 1 per cent off the amount of the purchase.

Q. That is, if they paid cash?—A. No, sir; on time—in addition to the time.

Q. 1 per cent discount?—A. Yes, sir.

Q. That is not 1 cent a gallon, but 1 per cent?—A. 1 per cent.

Q. And how much was that a gallon; how much did that discount amount to?—A. On 50 gallons it amounts to about 5 cents.

Q. How much did they sell there at that enormous discount?—A. They sold and continue to sell several thousand gallons there.

Q. How is that?—A. I will give you an estimate.

Mr. ROSENTHAL. Some thousands of gallons, I think he said—didn't you?

WITNESS. I said many thousands of gallons.

Q. Well, they deliver there from barrels, don't they?—A. No, sir; they deliver there in buckets. They have a commission agent, you know.

Q. They ship to the commission agent in barrels?—A. Yes, sir.

8844 Mr. CRAWFORD. What do you mean by buckets?

WITNESS. They have a tank-wagon bucket; in other words, a 5-gallon bucket.

Mr. CRAWFORD. Then you mean they deliver out of a tank wagon?

WITNESS. No; they put what is known as a 5-gallon bucket or milk bucket in their wagon, and their wagon goes around and serves on the same basis as we serve.

Q. For how long a period of time has the Red "C" been allowing 1 per cent discount at Cambridge?—A. Their commission agent has been allowing it several years.

Q. You have quite a trade there, haven't you, for your company?—A. Yes, sir.

Q. You have most of the trade, haven't you?—A. Yes, sir.

Q. How many customers are there there buying oil?—A. I suppose forty.

Q. How large a place is it?—A. About 7,000.

Q. Anybody else doing business in there besides you and the Red "C?"—A. That is all, sir.

Q. What percentage of the business have you got in there?—A. We have lost some business there steadily.

Q. What percentage have you got there?—A. I could not say.

Q. Are you selling oil to B. H. Thomas, of Cambridge?—A. No, sir.

Q. Did you ever sell to him?—A. Yes, sir.

Q. When did you make your last sale to him?—A. Made a small sale in 1907—several small sales.

Q. Who does supply him with oil?—A. The Red "C's" commission agent.

Q. Do you sell any to J. C. Daly?—A. Yes, sir.

8845 Q. Do you supply him with the most of his oil?—A. About half.

Q. Do you sell any to A. J. Dunn?—A. No, sir.

Q. How long since you sold Dunn?—A. We sell him about twice a year.

Q. You sell him about twice a year?—A. Yes, sir.

Mr. CRAWFORD. Now?

WITNESS. Yes; sell him about twice a year; formerly sold him all.

Mr. CRAWFORD. How much do you sell him each time? What do you mean by selling him twice a year?

WITNESS. Well, I take notice from our records that he buys about once or twice a year, small quantities, simply because I have his good will.

Q. You formerly sold him all, did you, before the Red "C" went in there?—A. We sold him a large part of his oil.

Q. You do not have anything to do with the fixing of prices, do you, at all?—A. No, sir.

Q. You are simply a salesman on the road?—A. Yes, sir.

Q. The company gives you a price, and you sell at that price?—A. Yes, sir.

Q. When the price changes, who makes that change?—A. The Baltimore office.

Q. You get word from the Baltimore office to change your price?—A. Yes, sir.

Q. And that is all you know about it?—A. That is all I know, sir.

Q. Simply follow their orders?—A. Yes, sir.

8846 Redirect examination by Mr. CRAWFORD:

Q. These customers you have just been interrogated about, B. H. Thomas and J. C. Daly and A. J. Dunn, were they formerly your customers? I mean, did you formerly sell them all or a large part of what they bought?—A. Yes, sir.

Q. And at the present time you sell them only a small amount?—A. Comparatively little.

Q. And who sells them the balance?—A. The Red "C's" agent.

Q. Then, in those cases, the Red "C" has taken away the most of the trade of those customers from you, has it?—A. Yes, sir.

Q. Have you lost any other trade in your territory to the Red "C" Oil Company?—A. Yes, sir.

Q. In various places?—A. Yes, sir.

Q. Do you know whether these men, Thomas and Daly and Dunn, at Cambridge, Maryland, whose trade you appear to have substantially lost, received the same concession from the Red "C" Oil Company that you testified Mr. Bradshaw did?

Mr. MORRISON. He testified what they received.

Q. That is, the 1 per cent discount and the credit?—A. Yes, sir.

Q. They all received that, did they?—A. Yes, sir.

Q. And were there some other men in Cambridge, besides, who received the same?—A. There were others.

Q. You testified that at the time of this occurrence at Easton, where Martin Wright received the equivalent of a 60-gallon tank from the Red "C" Oil Company, the price at which you were selling Pratt's Astral oil was 12 cents?—A. Yes, sir.

8847 Q. That was the general price for that oil in that section, was it not?—A. Yes, sir.

Q. That 12 cents was not the result of any cut of the Red "C's" price?—A. No, sir; the general price.

Q. In the case at Perryville, where Mr. Morrison asked you something about the prices getting together, I wish you would explain just what took place. As I understand, the Standard's price was 14 cents for gasoline at Perryville in July, 1906, and the Red "C" Oil Company sold gasoline in there at 13½ cents, and also gave a credit. Now, what happened subsequently in the matter of prices?—A. Well, we did not reduce our price to meet it at once, and when we reduced our price there, we reduced our price throughout that field.

Q. That was some time later was it?—A. Yes, sir.

Q. At some time later there was a general decline, you mean to say?—A. A general decline.

Q. Which brought your price down to that of the Red "C"?—A. That is right, sir.

8848 FINLEY H. SPARKS, called on behalf of the defendants, being duly sworn, testified as follows:

Direct examination by Mr. ROSENTHAL:

Q. What is your full name?—A. Finley H. Sparks.

Q. Where do you live?—A. Washington, D. C.

Q. How long have you lived there?—A. About three years—a little over three years.

Q. What is your business?—A. Collector and office work.

Q. For what company?—A. Standard Oil.

Q. How long have you been connected with the Standard Oil Company?—A. Since June 25, 1905.

Q. What did you do for the Standard in 1905 and 1906?—A. Superintendent of the men on the street—tank-wagon men—and soliciting trade.

Q. At Washington?—A. At Washington; yes, sir.

Q. What were your duties as superintendent of tank wagons?—A. To call upon the trade and see if they got proper service by our men, and solicit their business.

Q. Did those duties bring you in contact with the trade?—A. Yes, sir.

Q. What companies were competitors of the Standard Oil Company during the time that you were a tank-wagon expert?—A. The National Oil Company and the Columbia Oil Company.

Q. That is, at Washington?—A. At Washington, D. C.; yes, sir.

Q. Certain officials connected with those testified in this case, at Washington, concerning alleged price cuts being made
8849 by the Standard Oil Company. Do you know of any instances where either one of these companies—that is, the National or the Columbia—made any open cuts or made any cuts on the open tank-wagon prices of the Standard Oil Company for either gasoline or oil in the city of Washington?—A. On both, sir. The National did in each and every point that it went to.

Q. When did the National come in there?—A. The National was there when I went there.

Q. And you say that it cut the prices at every point where it went into competition with the Standard?—A. Yes, sir.

Q. When was that?—A. In 1905 and the first part of 1906.

Q. Can you give me the names of some of the merchants that the National sold at such cut prices?—A. Smith, of Berwyn, Maryland.

Q. A man by the name of Smith, at Berwyn, Maryland?—A. Yes, sir.

Q. What was the Standard price there?—A. Our price there was 9 cents.

Q. And to what did the National cut this price?—A. 8.

Q. Who next?—A. E. P. Van, of Lakeland.

Q. E. P. Van, of Lakeland, Maryland; is that right?—A. Yes, sir.

Q. And what was the Standard price there?—A. 9; they cut to 8.

Q. How about B. Gettings, of Riverdale, Maryland?—A. Our price there was 8; they cut to 7½.

Q. And was there then a man by the name of Ransom, also, at Riverdale, Maryland?—A. Yes, sir. Our price was 8; they
8850 cut to 7½.

Q. Hyman Brown, of Bladensburg, Maryland?—A. Our price was 8; they cut to 7½.

Q. Was there any cut on gasoline?—A. Yes, sir.

Q. Made to this man Brown?—A. Yes, sir.

Q. What was it?—A. A cut of a cent. Our price was 10; they cut to 9.

Q. How about Keyser, Bennings, District of Columbia?—A. Our price 8; they cut to 7½.

Q. A man by the name of Edalvitch, at Hyattsville, Maryland?—A. Our price 8; they cut to 7½.

Q. J. W. White, of Bladensburg road, District of Columbia?—A. Our price 8; they cut to 7½.

Q. G. Claggett, 16th and H streets, Washington, D. C.?—A. Our price 8; they cut to 7½.

Q. On oil?—A. On oil.

Q. Was there any cut in gasoline?—A. 10; they cut to 9.

Q. J. Allen, of Wylie avenue, Washington?—A. Our price on gasoline 10, they cut to 9; and our price on oil 8, they cut to 7½.

Q. Do you know T. H. Mohler, of Washington, D. C.?—A. Yes, sir.

Q. What is his business?—A. Paints and oils.

Q. Had he been a customer of the Standard?—A. Yes, sir.

Q. And did the National sell to him?—A. Yes, sir.

Q. At a cut price?—A. Yes, sir.

Q. What was the Standard price on gasoline?—A. Our price was 10, and the National cut to 8½.

8851 Q. In order to sell Mohler?—A. Yes, sir.

Q. Do you know A. Grant, of Washington, D. C.?—A. Yes, sir.

Q. Was he a customer of the Standard?—A. Yes, sir.

Q. And did the National sell him?—A. Yes, sir.

Q. What is his business?—A. Paints and oils.

Q. Did the National make any cut in selling him?—A. Of one cent.

Q. They cut Mohler a cent and a half and they cut Grant one cent?—A. Yes, sir.

Q. The prices in Grant's case were cut from what?—A. From 10; our price was 10 and they sold for 9.

Q. That is on gasoline?—A. Yes, sir.

Q. Do you know H. E. Emrich, of Virginia avenue, Washington, D. C.?—A. Yes, sir.

Q. Was he a customer of the Standard?—A. Yes, sir.

Q. Did the National or the Columbia sell him at a cut price?—A. The National sold him; yes, sir.

Q. At what price, compared to yours?—A. A cent below our price on gasoline.

Q. R. Thomas, Washington, D. C.?—A. Yes, sir.

Q. What is his business?—A. Grocery store.

Q. Did they make a cut price to him?—A. Yes, sir.

Q. Of how much?—A. Of a half a cent on oil and a cent on gasoline.

Q. L. Cohen, 1000 Third street, Washington, D. C.?—A. Yes, sir.

Q. Was there a cut price there?—A. Yes, sir.

8852 Q. Made by whom?—A. By the National.

Q. Of how much?—A. Of a half a cent on oil. He didn't handle gasoline.

Q. Do I understand you that the National was in there before the Standard?—A. No, sir; you didn't understand me to say that. It was there when I went there, in Washington.

Q. The National was there?—A. Yes, sir; When I went to work in Washington.

Q. Do you know which of the two concerns was in the field first—the Standard or the National? Have you any personal knowledge of that?—A. The Standard was in the field first.

Q. And do I understand you that all of these men whose names you have thus given, whose addresses you have given, had theretofore been customers of the Standard, and that their trade was lost to the National by reason of this cut in prices?—A. It was.

Q. How about A. Gordon, at Washington, D. C.; did the National make a cut to him?—A. Yes, sir.

Q. What was his business?—A. Grocery store.

Q. A cut of how much?—A. On gasoline a cent and on oil a half a cent.

Q. A man by the name of Keys, at Linden, Maryland; what was the cut there, if you know?—A. The Columbia Oil Company made that cut.

Q. Had he been a customer of the Standard?—A. Yes, sir.

Q. Did the Columbia get his business?—A. Yes, sir.

Q. How?—A. By cutting the price.

Q. From what to what?—A. From 9 to 8.

8853 Q. That is on oil?—A. On oil.

Q. F. Altemus, Washington, D. C., 14th street.—A. The National cut the price there.

Q. What was his business?—A. Grocery store.

Q. How much of a cut did the National make?—A. They made several cuts on price to Mr. Altemus. The first cut they made was a half a cent; then they made it a full cent, and in the spring of 1906 they cut our price about a cent and a half.

Q. That was on gasoline, was it?—A. Yes, sir.

Q. Did they get his business?—A. Yes, sir.

Q. Took it away from the Standard by reason of that cut?—A. Yes, sir.

Q. Do you know Sanford Bros. in Washington?—A. Yes, sir.

Q. What is their business?—A. Grocery.

Q. And had they been customers of the Standard?—A. Yes, sir.

Q. Was their business lost?—A. Yes, sir.

Q. To whom?—A. To the National Oil Company.

Q. By reason of what, if you know?—A. Cutting the price on gasoline.

Q. How much?—A. A cent.

Q. How about the National Automobile Company, on 14th street, Washington?—A. They were customers of ours, but the National got them away from us.

Q. How?—A. By a reduction in the price.

Q. Of how much?—A. By a cent.

Q. Did they also reduce or cut the price of oil in connec-
8854 tion with their sales to Sanford Bros., as well as of gasoline?—A. I don't remember whether they sold Mr. Sanford any oil or not.

Q. How about J. Sayles, of Anacostia, District of Columbia? Was there any cut price made to him by the National or the Columbia?—A. By the National there was; yes, sir.

Q. Of how much?—A. Gasoline, one cent, and oil a half a cent.

Q. And what happened there?—A. We lost his business.

Q. How about W. Moore, of the same place, Anacostia, District of Columbia?—A. We lost his business through a cut in price.

Q. Was the cut the same?—A. The cut was the same as Sayles's.

Q. Was it oil or gasoline?—A. Oil.

Q. Do you know the Clapp Ammonia Company, of Washington?—A. Yes, sir.

Q. What is its business?—A. It makes ammonia.

Q. And was it a customer at any time of the Standard?—A. Yes, sir.

Q. Did you lose its trade?—A. We did, sir.

Q. To whom?—A. To the National Oil Company.

Q. By reason of what, if you know?—A. Better price; they gave a better price.

Q. Did they cut the regular Standard market price?—A. Yes, sir.

Q. How much?—A. On gasoline, a cent.

Q. Any oil?—A. I don't remember whether they sold them any oil or no.

8855 Q. Regan's boathouse, 13th and Water streets, Washington, D. C.—A. Yes, sir.

Q. Had that been a customer of yours?—A. Yes, sir.

Q. That is, of the Standard, I mean.—A. Yes, sir.

Q. Did the Standard lose its trade?—A. Yes, sir.

Q. Due to what?—A. To better price given by the National Oil Company.

Q. You mean by a better price that they cut your price?—A. They cut our price; yes, sir.

Q. They cut from the regular tank-wagon price?—A. Yes, sir.

Q. Of how much?—A. Half a cent.

Q. That is, on gasoline?—A. On gasoline; yes, sir.

Q. How about Whelan's Market, 3rd and E streets, Washington, D. C.?—A. The National cut our price on oil.

Q. How much?—A. Half a cent.

Q. Did it get the business away from you?—A. Yes, sir.

Q. In addition to these places, these concerns and names and addresses we have given the Government, do you know of any other instances where this company cut prices?—A. Why, the National Oil Company cut the prices all over the field, everywhere they went.

Q. Was that the way that they instituted their business?—A. That is the way it was going on when I went there, sir.

Q. Did they ever give any oil away in order to get business?—A. Yes; I have been told by several that they gave them oil.

Q. You mean by grocers?—A. Yes, sir. If they would buy from them, they would make them a present of 5 gallons of oil.

8856 Q. Have you any particular instances in mind?—A. Yes; I have a man by the name of Gordon.

Q. Who was he?—A. A storekeeper.

Q. Where?—A. At 6th and H streets southwest, Washington.

Q. A grocer?—A. Yes, sir.

Q. What did they do, so far as giving oil away to him was concerned, in order to get his business?—A. They put in 25 gallons and made a ticket——

Mr. KELLOGG. You are telling what he told you; not what you know yourself, are you?

WITNESS. I am telling what I saw on the ticket this time, sir.

Q. What you saw on the ticket?—A. Yes, sir. They put in 25 gallons of oil and made a ticket out for 20.

Q. Do you know of any other instances?—A. Well, I know of a great number of them, but I can't just recall the storekeeper's name, and I can't keep in my memory all of the stores in Washington; there are some 1,600 stores there.

Q. Do you know a man by the name of C. C. Hayes, on G street, in Washington?—A. Yes, sir.

Q. What is his business?—A. At that time he was running a wood and coal place there.

Q. When was that—in 1905?—A. Yes, sir.

Q. Had he been a customer of the Standard?—A. Yes, sir.

Q. Did the Standard lose his trade?—A. Yes, sir.

Q. To what company?—A. To the National.

8857 Q. Why?—A. They cut our price there; then they offered to stay below our price; didn't care what our price was, they would sell below us.

Q. How much of a cut did that make in the first instance?—A. Half a cent the first instance.

Q. On oil?—A. Yes, sir.

Q. Then, as I understand you, they offered to continuously thereafter sell at a price lower than the regular Standard tank-wagon price?—A. Yes, sir.

Q. In order to hold the business?—A. Yes, sir.

Q. Do you know a man by the name of A. Seers, on 4th and I streets, Washington?—A. Yes, sir.

Q. Had he been a customer of the Standard in 1905?—A. Yes, sir.

Q. Did you lose his business?—A. Yes, sir.

Q. Why?—A. Because the National cut the price.

Q. How much?—A. A cent on gasoline and a half a cent on oil.

Q. How about B. Kandall? Where was his place?—Up in Mount Pleasant, Washington.

Q. And his business?—A. Grocery store.

Q. Was there any cut made there by the National?—A. Yes, sir.

Q. Had he been a customer of the Standard?—A. Yes, sir.

Q. Did the Standard lose his business?—A. Yes, sir.

Q. Why?—A. On account of cut in the price of half a cent.

8858 Q. Do you know a man by the name of M. Hill?—A. Yes, sir. There are several storekeepers there by the name of Hill. M. Hill, I——

Q. Where is that?—A. In Southeast Washington.

Q. And do you know of any Hill who was a customer of the Standard whose trade was lost to the National by reason of any cut in price made by the National?—A. Yes, sir.

Q. Tell us about that, please.—A. The National sold him half a cent below our price, and he said that a half a cent looked good to him, and that he expected to continue buying of them as long as he could get that cut of a half a cent.

Q. How about M. Brinkley?—A. He bought from the National.

Q. Had he been a customer of the Standard?—A. Yes, sir.

Q. And was there a cut made there?—A. Yes, sir.

Q. Of how much?—A. Half a cent.

Q. How about M. N. Keyser?—A. We just mentioned him a while ago. There was a cut in the price there, sir.

Q. On July 28, 1905?—A. Yes, sir.

Q. Was there any cut in price made then to Keyser by the National; and if so, how much?—A. Half a cent.

Q. Do you know a man by the name of R. White?—A. Yes, sir.

Q. Is "R. White" a man or a woman?—A. It is a man.

Q. Where is he in business?—A. Bladensburg road.

Q. Where is that—out of Washington?—A. It is in the District of Columbia.

Q. Had he been a customer of the Standard?—A. Yes, sir.

Q. What is his business?—A. Grocery store.

8859 Q. Did the National take his trade away?—A. Yes, sir.

Q. When?—A. In 1905.

Q. And by reason of what?—A. Cut in price of a half a cent.

Q. E. S. White—where is his place of business?—A. That is on Bladensburg road.

Q. And did the Standard take his business?—A. Yes, sir.

Q. Or the National, I mean.—A. The National; yes, sir.

Q. By reason of what?—A. Cut price.

Q. Took it away from the Standard?—A. Yes, sir.

Q. Do you remember what that cut was?—A. Half a cent. It was a half a cent in 1905, and in the first of 1906 he cut the price 2 cents.

Q. In connection with White's business?—A. E. S. White; yes, sir.

Q. You mean the National cut the price 2 cents on what—oil or gasoline?—A. Oil.

Q. What is the Berwyn route?—A. Suburban route, outside of the city.

Q. And was that a route covered by the Standard tank wagons?—A. Yes, sir.

Q. Did the National come in there and attempt to do any business?—A. Yes, sir.

Q. Did it do any business on that route?—A. It did; yes, sir.

Q. By reason of what, if you know?—A. Cutting the price.

Q. How much?—A. From half a cent to a cent.

Q. Do you know T. H. Mohler?—A. Yes, sir.

Q. Who was he?—A. Paint and oil store at 1804 Seventh
8860 street, Washington, D. C.

Q. Do you know of any cut in price made by the National there in September, 1905, or in the fall of 1905?—A. They cut the price there to 8½ cents, against our price of 10.

Q. Did the Standard lose the business by reason of that cut?—A. Yes, sir.

Q. L. Porton. What was his business and where was his place of business?—A. Grocery store, 15th and H streets northeast, Washington, D. C.

Q. Had he been a customer of the Standard?—A. Yes, sir.

Q. Did you lose his trade?—A. Yes.

Q. Why?—A. On account of a cut of a half a cent in price.

Q. By what company?—A. By the National.

Q. Do you remember when that was?—A. 1905.

Q. In the month of September, 1905, do you remember the prices that were generally made by the National in your territory at that time, and what your prices were?—A. In the month of September, I think—I am pretty sure—our price was 8½ cents and their price was—well, I couldn't tell what their price was.

Q. Why not?—A. In one place it would be 7½ and in another it would be 7.

Q. Do you know the I. C. Cleary Company?—A. No, I can't recall it just now.

Q. Do you know a man by the name of J. Zubnick?—A. Yes, sir.

Q. Where is his place of business?—A. In Washington.
8861

Q. What is his business?—A. Grocery store.

Q. Had he been a customer of the Standard?—A. Yes, sir.

Q. Did you lose his trade?—A. Yes, sir.

Q. By reason of what?—A. Of a half a cent cut in oil.

Q. By what company?—A. By the National. His address is North Capitol and O streets.

Q. Now, you have mentioned these specific instances of price cutting by the National, one of your two competitors in Washington. How about the Columbia? Do you remember any price cutting done by that company?—A. Yes; they cut the price at Arlington, Virginia.

Q. Where else?—A. At Forest Glen.

Q. Where else?—A. Just at this time those are the only two places that I can recall.

Q. At Triangle, Maryland?—A. Yes, at Triangle.

Q. At Linden, Maryland?—A. Yes, sir.

Q. Can you name the customers at Arlington, Virginia, whose business the Columbia took away from the Standard by reason of a cut in price?—A. Well, there were two that they had taken away—Watzman and Levi.

Q. What is his first name? What is his business?—A. Grocery store.

Q. Watzman, a grocer at Arlington, Virginia?—A. Yes, sir.

Q. And Levi?—A. Yes, sir.

Q. What was his business?—A. Grocery store.

Q. At Arlington, Virginia?—A. Yes, sir.

Q. Do you remember how much of a cut was made there?—
8862 A. Half a cent.

Q. By the Columbia?—A. Yes, sir.

Q. Do you remember anyone else at Arlington?—A. The whole trade of Arlington was called on and solicited at that price.

Q. How about G. E. Burner?—A. I can't say positively that Mr. Burner bought, but his business was solicited at that price.

Q. How about L. Gray, at Arlington, Virginia?—A. The same as Mr. Burner.

Q. E. C. Jackson?—A. The same as Mr. Burner.

Q. Can you give the name of any concern at Forest Glen that the Columbia sold at cut price and succeeded thereby in getting the business away from the Standard?—A. Wolf & Company.

Q. What was their business.—A. Grocery store.

Q. Can you give us the name of anyone at Triangle, Maryland, whose business was thus gotten away?—A. Barnes.

Q. What was his business?—A. Grocery store.

Q. Anyone else at Triangle?—A. Yes, sir; a store just above the Triangle there, but I can't remember the storekeeper's name now.

Q. Was it Cohen?—A. I believe it was. The store changed hands quite often up there.

Q. Can you give us the name of any storekeeper at Linden?—A. Keys.

Q. Had Mr. Keys been a customer of the Standard?—A. Yes, sir.

8863 Q. What became of his business?—A. When the Columbia offered him oil for 8 cents he bought from the Columbia.

Q. Was that a lower price than the Standard's price?—A. Yes, sir.

Q. What was the Standard's price?—A. 9 cents.

Q. How does the price of the Columbia compare with the Standard tank-wagon price at present in the towns, say, of Waterloo, Arlington, and Brickhaven?—A. I am under the impression—I am not on the street now—but to the best of my knowledge——Q. Well, if you don't know——A. I would rather not say.

Q. Very well. Did the Standard Oil Company reduce its prices to meet these cuts?—A. It did; some of the cuts it did.

Q. How long after the Columbia and the National had cut their prices?—A. Sometimes it would be in a week, sometimes it would be three weeks, sometimes they never did cut them even.

Q. When the Standard reduced its price to meet these cuts, was the reduction thus made by the Standard made only to the particular customers who had bought at the cut price from the Columbia or the National?—A. Made to the whole trade.

Q. Made to the whole trade? In other words, you altered your open-market price?—A. Yes, sir.

Q. When you were advised of the Columbia or the National making a cut price, what did you do, so far as interviewing your superior officer was concerned?—A. When I knew positively that they had cut the price—I called from store to store until I found out the cut was positively made—then I reported it to the office.

8864 Q. Did you find as you went from store to store that you could not sell the trade by reason of the cut in price made by these two companies?—A. No; I could not sell it while they were selling below us.

Q. So that in order to get that trade, as I understand, you then cut?—A. We had to reduce the price to theirs.

Q. You had to reduce the price thereafter to meet theirs?—A. Yes, sir.

Q. Did you cut below their price?—A. No, sir.

Q. These cuts made by the Columbia, that you have testified to, about what was the time those cuts were made?—A. It was in 1905 or 1906; I don't remember just when the cut was made. But I think the cut at Arlington was 1906; I am sure of that.

Q. Do you know a man by the name of S. N. Stearman?—A. Yes; at Four Corners.

Q. Where?—A. Four Corners, Maryland.

Q. Was his trade taken away from the Standard by the Columbia, and if so, under what circumstances?—A. It was taken away, but I don't know under what circumstances.

Q. Do you know whether the Columbia made a cut there or not?—A. I do not, sir.

Q. You can't say as to that?—A. No, sir.

Q. How about Mrs. Atkins? Who was she and what was her business?—A. I can't remember that name; I can't recall it.

Q. T. H. Dillon and R. Ruben? Do you remember those
8865 cases?—A. Grocery men of Washington.

Q. And was their trade taken away from the Standard?—A. That should be Dill instead of Dillon.

Q. What became of their trade?—A. The National got it on a cut price.

Q. J. H. Acton; where is his place of business?—A. Anacostia.

Q. Was he a customer of the Standard?—A. Yes, sir.

Q. What became of his trade?—A. We lost his trade to the Columbia on a cut of a half a cent on gasoline.

Q. Do you remember about when that was?—A. 1905 or 1906; I don't just remember.

Cross-examination by Mr. KELLOGG:

Q. When did you go to Washington?—A. 26th of June, 1905.

Q. At that time the Standard were selling oil in Washington at 7½ cents a gallon, weren't they?—A. At the time I went there it was selling it at 8.

Q. Wasn't it selling oil in Washington and Falls Church at 7½ cents a gallon at that very time, in May and June, 1905?—A. Falls Church I don't know anything about.

Q. Falls Church is just out of Washington, isn't it?—A. I know where it is at, sir.

Q. You reach it by tank wagon from Washington?—A. Yes, sir.

Q. Don't you know they were selling oil there at 7½?—A. Not
8866 at the time I went to Washington; no, sir. I know the price was 8 cents at that time.

Q. That is, the nominal price was 8 cents?—A. No; our tank-wagon price was 8 cents.

Q. As a matter of fact, during all of May and all of June, 1905, wasn't the price at which the Standard had been selling in Washington 7½ cents?—A. No; I don't think it was until July.

Q. You don't think it was until July?—A. No, sir.

Q. And September is the time you said that the National made its cut?—A. The National made its cut all along from the time I went there until it left.

Q. Where did you work before you went to Washington?—A. United Railway, Baltimore.

Q. Did you ever work for the Standard before you went to Washington?—A. No, sir.

Q. You never worked for Bender?—A. Did I ever work for him?

Q. Mr. Bender; yes.—A. No, sir; I never worked for Mr. Bender.

Q. Do you know Mr. Bender?—A. Yes; I know him when I see him.

Q. Are you working for him now?—A. No, sir; I am working for the Standard Oil.

Q. Where is Mr. Bender now?—A. I could not tell you, sir. I don't know.

Q. Wasn't Mr. Bender the local agent in Washington when you were there?—A. Mr. D. H. Jackson was at that time.

8867 Q. During all the time you were there?—A. No; not all the time.

Q. Was Mr. Bender part of the time?—A. Well, from some time in 1906.

Q. Bender was?—A. Yes, sir.

Q. Until the present time?—A. Is he there at the present time?

Q. Yes.—A. I don't know right at the present time whether he is there or no. I imagine that he is there.

Q. Are you with him? Are you working there now?—A. I am working in Washington; yes, sir.

Q. Well, isn't Mr. Bender the special agent there now of the Standard Oil Company?—A. No, sir; Mr. J. M. Walker is special agent.

Q. Isn't Mr. Bender working for the Standard Oil Company there?—A. Yes, sir.

Q. As local agent?—A. Well, I presume you would call him a local agent.

Q. What is your business?—A. Collector and office work.

Q. Working in Mr. Bender's office?—A. No; Mr. Bender's office is uptown and mine is at the warehouse.

Q. I notice in all these outside places that you named, Arlington, Triangle, and Forest Glen, all the cuts except one were made by the National Oil Company.—A. Most of them were made by the National Oil Company.

Q. When did the National Oil Company start in there?—A. I don't know, sir; it was there when I went there.

8868 Q. It was run by one L. C. Nicoli, wasn't it?—A. I suppose it was; yes.

Q. You know it, don't you?—A. I know Mr. Nicoli was there.

Q. Mr. Nicoli formerly worked for the Standard, didn't he?—A. I heard so. I had no knowledge of it.

Q. And they bought him out?—A. I never heard they bought him out.

Q. Didn't they buy out Nicoli's concern some years before and run it in the name of Nicoli?—A. I had never been told so.

Q. But you had been told he worked for the Standard Oil?—A. Yes; I heard that.

Q. He organized the National Oil Company, didn't he?—A. I suppose so; he seemed to be at the head of it.

Q. And lasted about two years, didn't he, when he went into bankruptcy?—A. Well, he lasted about a year and a half to my knowledge.

Q. Then he went into bankruptcy?—A. I don't know whether he did or not.

Q. He committed suicide, didn't he?—A. Oh, he did that all right.

Mr. ROSENTHAL. Did he do that all right?

WITNESS. He didn't have any better sense than to do it.

Q. He bought his oil in Texas, didn't he?—A. I don't know where he bought his oil from, sir.

Q. He was selling Texas oil, wasn't he?—A. I don't know that, sir.

Q. Never heard that?—A. No, sir.

Q. Weren't you furnished in your territory with outside

8869 shipments?—A. No, sir.

Q. They had abandoned that when you went to work?—A. I don't know that they ever had it.

Q. Well, you don't know where he got his oil?—A. No; I do not.

Q. Never heard what kind of oil it was?—A. No, sir. I know some of it was pretty rotten.

Q. What?—A. I know some of it was pretty bad oil.

Q. Yes; it was poor oil, wasn't it?—A. Some of it was; yes.

Q. It was below the quality of the Baltimore oil that you sold, wasn't it?—A. Yes; I will say it was.

Q. And he could sell it a good deal cheaper, couldn't he, than you could sell your oil?—A. I don't know that he could. I don't know what he paid for it.

Q. Didn't you hear it was Texas oil?—A. No, sir. As I said before, I never heard it was Texas.

Q. Never heard where he got it?—A. Never heard where he got it.

Q. Now, generally speaking, the Columbia didn't cut prices, did it?—A. Not in the city of Washington, they didn't.

Q. The Columbia Oil Company had their station at Arlington, didn't they?—A. Rosslyn.

Q. Rosslyn is just a mile from Arlington?—A. I don't know just the distance; some piece from there.

Q. A short distance?—A. Yes.

Q. And it distributed by tank wagon from that place?—
8870 A. Yes, sir.

Q. And you distributed from what place?—A. From Washington.

Q. How many miles' haul did you have?—A. Not so very far.

Q. More than the Columbia did to deliver at Arlington?—A. I imagine about an hour and a half, or something like that.

Q. Didn't you have about six miles' haul to deliver at Arlington?—A. No; I don't think so, sir. If it was, it was an awful short six miles.

Q. How far is it from your station to Arlington?—A. Where they made this cut, I don't really know what the distance is.

Q. Five or six miles, isn't it?—A. No; I won't say five or six. It is a short five or six, if it is.

Q. It is four or five miles, isn't it?—A. I won't say it is over three or four miles.

Q. You are coming up a little. Can't you put on another mile?—A. No, sir, I can't; because I believe it is only about three or four miles.

Q. They were right close to Arlington, weren't they?—A. About a mile and a half or two miles, something like that.

Q. Now, how much of that cut did they make that you mentioned at these four places?—A. I think I mentioned two places.

Q. Two places only.—A. Watzman and Levi. The others they solicited.

Q. Those are the only places you know of that they cut—the Columbia Oil Company?—A. At that place; yes, sir.

8871 Q. They are the only two places you mentioned, aren't they, outside of Washington, where they cut the price?—A. No, sir; Forest Glen.

Mr. CRAWFORD. He named four places.

Q. You named four places?—A. Yes, sir.

Q. They are the only places that you know of where they cut the price?—A. No; there is one place in the city.

Q. I mean outside of the one that you previously mentioned in the city.—A. Yes.

Q. That is all?—A. Yes.

Q. All the time you were there?—A. Yes, sir.

Q. Now, how much did they cut at Arlington?—A. Half a cent.

Q. Did you see the tank-wagon ticket?—A. I did.

Q. You saw it?—A. I had it in my hand, looking at it, sir.

Q. What grade of oil was it?—A. I don't really know.

Q. You don't remember?—A. No.

Q. Whether it was a cut under your best grade or your poor grade, or what it was?—A. I think our grade oil at that time was about the same.

Q. You think it was. Do you know whether it was or not?—A. No; I am not positive.

Q. You don't know anything about the grade of oil they bought at that price?—A. No.

Q. Or these other places where they cut, you don't know the grade of oil?—A. Oh, yes, I do. I think our oil and theirs were about the same.

Q. Did you see the oil they delivered under that cut?—A. I saw the oil; yes, sir.

8872 Q. Did you test it?—A. No.

Q. Could you tell by looking at it?—A. No.

Q. Then, you don't know anything about it, do you?—A. I know there was a cut in the price; they got business; I know that.

Q. How many times did you sell under them?—A. Not any, sir.

Q. To anybody?—A. Not to my knowledge.

Q. Well, you don't know that you didn't, do you?—A. Yes; I think I do know that I didn't.

(A recess was here taken until 2 o'clock p. m.)

8873 GEORGE E. PARSELLS, called on behalf of the defandants, being duly sworn, testified as follows:

Direct examination by Mr. ROSENTHAL:

Q. Where do you live?—A. Washington, D. C.

Q. And for how many years?—A. 13 years.

Q. Are you in the employ of the Standard Oil Company?—A. Yes, sir.

Q. In what capacity?—A. I supervise the warehouse.

Q. How many warehouses have they in Washington?—A. One.

Q. What are your duties in that connection?—A. I have charge of the stock, the shipments, and the equipment.

Q. Have you ever had any other position with the Standard?—A. Yes, sir.

Q. When?—A. In 1901 to 1905 I had charge of the refined-oil department and the collections.

Q. Where—at Washington?—A. Yes, sir.

Q. When you say you had charge of the collections and the refined-oil business, just what do you mean by that?—A. I mean that I was held responsible for the collections for that business in Washington and vicinity.

Q. Were you the local agent?—A. I was in the refined department; yes, sir; in the oil and gasoline.

Q. You were the local agent of the Standard in its refined-oil department?—A. Yes, sir.

Q. At Washington, D. C., from 1901 to 1905?—A. Yes, sir.

Q. And gasoline?—A. Yes, sir.

8874 Q. Who during that time were the principal competitors of the Standard at Washington?—A. There were the Independent Oil Company and the Columbia Oil Company.

Q. Who was the president of the Independent?—A. R. C. Baughman.

Q. And who was vice-president of the Columbia Oil Company?—A. I understood it was W. H. Fehsenfeld.

Q. Of Baltimore?—A. Of Baltimore.

Q. And the National Oil Company?—A. And the National Oil Company, the president of which was L. S. Nicoli.

Q. What other competition did you have?—A. The Red "C" Oil Company, of Baltimore, the president of which was W. H. Fehsenfeld.

Q. Was Fehsenfeld the president of both the Red "C" and of the Columbia?—A. As I understand it; yes, sir.

Q. Did the Standard at that time sell from tank wagons?—A. Yes, sir.

Q. Its regular way of doing business, then, was tank-wagon delivery?—A. Yes, sir.

Q. That business was done with whom there—retail storekeepers?—A. Retail storekeepers and peddlers.

Q. Did the Standard have an open-market price in connection with the doing of this business?—A. Yes, sir.

Q. What sort of a plant did you have at Washington during the time you were local manager as you described?—A. We had a warehouse, office, boiler room, stable, and five storage tanks.

8875 Q. The capacity of those storage tanks was what?—A. They varied. One held 190,000 gallons, one 107,000, and three 17,000-gallon tanks.

Q. How many storage tanks have you there now?—A. Twelve.

Q. With a total capacity of what?—A. The seven new tanks are of a capacity of 17,000 gallons each.

Q. And your tank wagons were filled at these storage tanks that were located at Washington?—A. From these storage tanks.

Q. And then went out around in Washington and the vicinity of Washington and sold oil?—A. Yes, sir.

Q. How much of that business was done in the District of Columbia itself?—A. Between 90 and 100 per cent.

Q. Over 90?—A. I would say over 90; yes, sir.

Q. And the balance was where—in the immediate vicinity?—A. In the immediate vicinity of Washington, in Maryland, and Virginia.

Q. Did you have any barrel trade there also?—A. We had a small barrel trade; yes, sir.

Q. What percentage of your total business was barrel trade?—A. I would say about one per cent.

Q. Who was your principal competitor in that connection?—A. The Red "C" Oil Company, of Baltimore.

Q. What was the price of your barrel goods based on?—A. Based on tank-wagon price.

Q. In your competition with the Red "C" Oil Company in connection with your barrel trade, what can you say, if anything, with respect to price-cutting?—A. Why, there were two or three instances.

8876 There was a man by the name of Hewitt, at Silver Springs, Maryland, to whom the Red "C" Oil Company cut our price half a cent. They sold him in barrels and the price was half a cent below our tank-wagon price at that point.

Q. Half a cent below your tank-wagon price or below your barrel price?—A. That is, it would figure out, after the barrels were returned, that they would be a half a cent below our tank-wagon price at that point.

Q. How did it compare with your barrel price, do you remember?—A. No, I don't remember that.

Q. How did your barrel price compare with the tank-wagon price?—A. It is usually a cent and a half above the tank-wagon price. Make that 2½ instead of a cent and a half.

Mr. KELLOGG. What was 2½ above?

WITNESS. The barrel price was 2½ above the tank-wagon price, as a rule.

Q. Do you know of any other cut in the selling of barreled oil besides that to Hewitt, made by the Red "C?"—A. Yes, there was a man by the name of Butt, at Sligo, Maryland, and another one by the name of Moss, at Sligo, Maryland.

Q. What about those two men in connection with their purchases from the Red "C?"—A. They claimed that they were getting the same price which Hewitt was at Silver Springs, which was half a cent below our tank-wagon price.

Q. Did the Standard hold their business or lose it by reason of that?—A. They lost it.

Q. They lost it?—A. Yes, sir; they lost all three of those.

Q. Aside from your experience in connection with these cuts in barrel sales, did you meet with any tank-wagon competition?—A. Yes, sir.

8877 Q. From what companies?—A. From the same three companies. Well, I beg to differ.

Q. Who was in the Washington field first—the Standard or these other companies?—A. The Independent was there first; then the Columbia, and then the Independent.

Q. I don't think you understood my question. Who was in the Washington field first—the Standard Oil Company?—A. Yes, sir; the Standard Oil Company.

Q. Did the Standard Oil Company precede any of these other companies that you have named?—A. No, sir.

Q. Was the Standard Oil Company in business in the city of Washington before any of these other companies were?—A. Yes, sir; years.

Q. I thought you didn't understand my question. They came in there and sought to take away the business which the Standard had?—A. Yes, sir.

Q. Generally speaking, how did they do that?—A. As far as the Independent was concerned, they did very little cutting; not any to my knowledge. The National made a general cut anywhere; most everywhere; and the Columbia, I only know of two cases where they made a cut that came under my personal knowledge.

Q. Can you give me those two cases?—A. One was a man by the name of J. H. Acton, Anacostia, District of Columbia, a suburb of Washington.

Q. 35½ Polk street, Anacostia?—A. Yes, sir.

Q. What about that cut?—A. Mr. Acton had been buying from the Standard for years. He was previously a peddler, and he
8878 had gone into the street-lighting business, which the National served, and they gave him a price of half a cent below the Standard on gasoline.

Q. Did the Standard meet that cut that was made to Acton?—A. No, sir.

Q. Can you give us any other case of a cut made by the Columbia?—A. Not by the Columbia; no, sir.

Q. I think you spoke of two.—A. Well, I should have mentioned one of those as the National.

Q. What?—A. I should have said one of those was the National. Only one was with the Columbia.

Q. Any other cases of price cutting by any of those companies?—A. J. H. Strommel, Capitol View, Washington.

Q. What was the cut there?—A. The cut there was a quarter of a cent on oil and a half a cent on gasoline.

Q. How about P. B. Nourse, Falls Church, Virginia?—A. Well, all of that Falls Church trade was cut by the Columbia. I have forgotten the prices, what they were at that time, but our price at Falls Church and that territory was a cent and a half above our Washington price.

Mr. KELLOGG. What time?

WITNESS. That was previous to 1906—or 1905 make it. The Columbia Oil Company went up there and cut all of those prices to the

Washington price, which was a cent and a half on oil and a half a cent on gasoline below our price up there.

Q. How far was Falls Church from Washington?—A. About 12 or 14 miles.

Q. How did you get the oil there?—A. We had five mules
8879 and two men.

Q. Hauled it out from Washington?—A. Hauled it out from Washington; yes, sir.

Q. Over those country roads?—A. Over those country roads.

Q. How big a place is Falls Church?—A. I should think Falls Church was in the neighborhood of 1,500 or 2,000 inhabitants.

Q. Your storage tank, however, was your Washington tank?—A. Yes, sir.

Q. And the Columbia cut the price there a cent and a half?—A. A cent and a half on oil and a half a cent on gasoline.

Q. Do you remember some of the merchants at Falls Church?—A. Yes, sir.

Q. Who are they?—A. P. B. Nourse, a man by the name of Gather, one by the name of Galpin. There are several more men up there, but I can't recall those names.

Q. Hytson?—A. Yes, sir; Hytson & Company.

Q. Staples?—A. Staples.

Q. Did you meet that cut?—A. Not at the time; no, sir.

Q. Do you remember a man by the name of Levi at Falls Hill, Virginia?—A. Yes, sir.

Q. Who had his business in the first instance?—A. The Standard Oil Company.

Q. What became of it?—A. It went to the Columbia.

Q. By reason of what?—A. A cut price.

Q. Of how much?—A. A cent and a half on oil and half a cent on gasoline.

Q. J. W. Sutton, Ballston, Virginia.—A. The same as Levi.

Q. W. T. Collings, at Ballston, Virginia.—A. The same as the above.

8880 Q. The same cut, of a cent and a half on oil and half a cent on gasoline, was made to all three of those men?—A. Yes, sir.

Q. What became of their business?—A. Went to the Columbia.

Q. Do you know W. H. Suite, Clarendon, Virginia?—A. The same as the ones previous.

Q. How far is Ballston from Washington?—A. Ballston, I should say, is about 8 to 10 miles.

Q. And Clarendon?—A. About 8 miles.

Q. And Falls Hill?—A. About 8 miles.

Q. Are they all small towns?—A. All small suburban towns.

Q. And how do you get the oil there from Washington?—A. Tank wagon.

Q. Haul it out?—A. Haul it out.

Q. Over the country roads?—A. Yes, sir.

Q. How does the gallonage in those towns compare with the gallonage at Washington?—A. The average of the tank wagon was a great deal smaller.

Q. Do you know L. O. Sherring and M. C. Todd, of Cherrydale, Virginia?—A. Yes, sir.

Q. Where is Cherrydale, Virginia?—A. Between Washington and Falls Church.

Q. About how many miles out—8 or 10?—A. About 8 or 10 miles.

Q. What was your price there?—A. The same as at Falls Church.

Q. How much was that?—A. That was a cent and a half above the Washington price on oil and half a cent on gasoline.

8881 Q. Did you have any customer there?—A. Yes, sir.

Q. Sherring and Todd were customers of yours?—A. Both of them customers of ours.

Q. What became of that trade?—A. It went at that time back to the Columbia Oil Company—or to the Columbia Oil Company.

Q. Why?—A. On account of cut price.

Q. Did you know L. Gray, of Arlington, Virginia?—A. Yes, sir.

Q. Was he a customer of the Standard?—A. She was.

Q. What became of that trade?—A. Went to the Columbia.

Q. Why?—A. On account of the cut price.

Q. Of how much?—A. If I remember, it was a cut from 9½ to 7 cents.

Q. W. R. Lee, of Brickhaven, Virginia.—A. Yes, sir.

Q. And Henry & Company, of Brickhaven, what was the Standard price there?—A. It was a cent and a half above the Washington price.

Q. How far was that from Washington?—A. That was about six miles—six or seven miles.

Q. How did you get the oil out there?—A. By tank wagon.

Q. Hauled it out?—A. Yes, sir.

Q. What did the Columbia do there?—A. Cut the price to a cent and a half on oil and half a cent on gasoline.

Q. And what became of those customers?—A. Went to the Columbia.

Q. Did you meet any of those cuts?—A. No, sir; not at that time.

Q. Well, when did you?—A. I should say a month or six
8882 weeks afterwards.

Q. Did you report those cuts to your superior officer?—A. Yes, sir.

Q. At the time that you first learned of them?—A. Yes, sir.

Q. Who was your superior officer to whom you reported?—A. J. M. Walker at that time.

Q. You say you met the cuts about a month or six weeks after?—A. Yes, sir.

Q. Did you meet the cuts by reducing your price to those particular persons only?—A. No, sir; it was a general cut all over the country.

Q. That is, when you use "cut" in that connection you mean a general reduction of your prices to all customers?—A. A general reduction to all customers in that territory; yes, sir.

Q. No one customer was treated differently than any other customer——A. No, sir.

Q. Similarly located?—A. No, sir.

Q. That is true, isn't it?—A. That is positively right.

Q. Now, these cuts that you have been speaking of were, first, cuts made by the Columbia Oil Company at these different points. I direct your attention now to Mr. Fehsenfeld's company. Isn't it the National?—A. Yes, sir.

Mr. KELLOGG. No, it isn't the National.

WITNESS. No, the Columbia is Mr. Fehsenfeld's company.

Q. Oh, yes. Well to the National Oil Company. Do you know an oil peddler by the name of J. S. Strommel, Capitol Heights,
8883 Maryland?—A. Yes, sir.

Q. Had he been a customer of the Standard?—A. Yes, sir.

Q. How had he gotten his oil from the Standard?—A. He was a peddler. He used to come to the warehouse for it.

Q. How did the price at which he was able to buy his oil at the warehouse compare with your tank-wagon price?—A. It was half a cent less on gasoline and a quarter of a cent less on oil.

Q. What became of his trade?—A. Went to the National.

Q. Under what circumstances?—A. A cut of a half a cent on gasoline and a quarter of a cent on oil.

Q. What else did the National do in order to get his trade, so far as delivery was concerned?—A. It bought him a horse.

Q. Where did they deliver the oil to him?—A. At his place at Capitol Heights.

Q. So they not only cut your price, but they bought this peddler a horse, and then delivered oil to him at his place instead of making him come to the central storage place for it?—A. Yes, sir.

Q. What became of his trade?—A. It went to the National.

Q. Do you know T. H. Rowland?—A. Yes, sir.

Q. J. Gross?—A. Yes, sir.

Q. W. H. Walls?—A. Yes, sir.

Q. T. Dennison?—A. Yes, sir.

Q. J. W. Brown?—A. Yes, sir.

Q. J. H. Hellman?—A. Yes, sir.

Q. And A. J. Dixon?—A. Yes, sir.

8884 Q. Where were they doing business?—A. In Washington and vicinity.

Q. What were they—peddlers?—A. Oil peddlers.

Q. And did they do business in the same way that Strommel did his business?—A. The same way; yes, sir.

Q. Did you come in personal contact with those men?—A. Yes, sir.

Q. From whom were they buying when you first knew them?—A. Standard Oil Company.

Q. Where did they thereafter buy?—A. Bought from the National as long it was in business.

Q. As long as it was in business?—A. Yes, sir, or divided their trade with them.

Q. Did the National get the business of those peddlers away from the Standard?—A. Yes, sir.

Q. How?—A. A cut of one cent a gallon on oil.

Q. By reason of that cut the Standard lost the business and it went to the National?—A. Yes, sir.

Q. When was that?—A. That was in 1905 and 1906.

Q. You have given us, now, this long list of names showing specific instances of cuts made by the National and the Columbia Oil companies and the Red "C." Do you wish to be understood as saying that those were the only cuts made by those companies during the time that they were in competition with the Standard at Washington?—A. The only cuts that came under my personal knowledge. In fact, those cuts at Falls Church did not come under me personally, you know.

8885 Q. How about your suburban trade generally?—A. It was generally cut. I understood it was generally cut, although I didn't know it personally.

Q. By what companies?—A. By the National and Columbia, both.

Q. How many years have you been connected with the Standard Oil Company?—A. Nearly twenty years.

Q. How many years in the District of Columbia and vicinity?—A. Thirteen.

Q. During those thirteen years has the Standard always had competition there?—A. No; not always.

Q. For how many years?—A. They have had competition there in the last—well, there were only about three years, I would say; from 1898 to 1901 or 1902; that is a rough estimate, you know.

Q. During all of that time you were familiar with the range of prices of both oil and gasoline in that territory, were you not?—A. Yes, sir.

8886 Q. During that time, do you now know, or did you ever know, of a price cut that was initiated by the Standard as against any of its competitors?—A. No, sir.

Q. Who always initiated or started the price cutting?—A. The competitor.

Cross-examination by Mr. KELLOGG:

Q. Did you know a man by the name of Baughman?—A. Baughman—yes, sir.

Q. He is a Standard employee, isn't he?—A. He was; yes, sir.

Q. Prior to 1901 he was with the Standard Oil Company, was he?—A. I think it was about that time; yes, sir.

Q. In Washington?—A. Yes, sir.

Q. In 1901 he organized the Independent Oil Company, didn't he?—A. Yes, sir.

Q. And started to sell oil in Washington?—A. Yes, sir.

Q. In competition with the Standard Oil Company?—A. Yes, sir.

Q. How long did he do that business?—A. I should say he was in business about two years.

Q. Then the Standard bought him out?—A. I could not say that.

Q. Don't you know they took over his property?—A. I don't know a thing about it; no, sir. It did not come to our plant. They might have taken it over.

Mr. ROSENTHAL. Well, you have answered.

Q. He went back into the employment of the Standard, didn't he?—A. No, sir; he did not.

Q. Never went back into the employment of the Standard?—A. Never to my knowledge.

8887 Q. Where did he go?—A. I understood he went up here into New Jersey in the Whiting business.

Q. And you have no knowledge that the Standard bought his plant?—A. No, sir.

Q. Never heard of it?—A. Oh, I have heard that such was the fact; yes, sir; but I have no personal knowledge of it.

Q. That is what I want. You did hear that the Standard bought him out?—A. Yes; but I have no personal knowledge of it.

Q. Don't you know of their taking over what property he had left?—A. No, sir; I have heard of it, but I don't know of it.

Q. Where did you hear of it?—A. Over in Washington.

Q. In the course of your business?—A. Yes, sir.

Q. Was the invoice of goods turned over to your concern?—A. The invoice of his goods?

Q. Yes.—A. Not to our office; no, sir; never a thing.

Q. When he started in business in 1901, or shortly after that, oil went down to 5 cents a gallon in Washington, didn't it?—A. I don't remember the prices.

Q. It went down very low, didn't it?—A. I could not tell you, sir.

Q. How is it you recollect all these prices, if you can not recollect that?—A. That is a year or two before that.

Q. You have been talking about the prices at Falls Church in 1901?—A. Oh, no; not in 1901.

Mr. CRAWFORD. 1905.

WITNESS. 1905.

Q. You have no recollection of what the price went to in 1901?—A. In 1901 my recollection is the price in Washington was 6½ cents.

8888 Q. Wasn't it down below that?—A. I think that is the lowest it ever got down in Washington—that is my recollection of it.

Q. 6½ cents?—A. That is my recollection.

Q. That is the lowest price it ever went?—A. I do not say it was, but that is my recollection.

Q. Were you making any money at 6½ cents?—A. I could not tell you, sir.

Q. Aren't you familiar with the cost of marketing?—A. No, sir.

Q. Don't know anything about it?—A. No, sir.

Q. At what price was the oil sold to you?—A. We don't know anything about that, sir.

Q. You don't know anything about that?—A. No, sir.

Q. Who does know?—A. I suppose the officials at Baltimore and New York know.

Q. What was the difference in your price at that time between Falls Church and Washington?—A. A cent and a half.

Q. A cent and a half a gallon. Do you know a man by the name of J. W. Brown, of Falls Church?—A. I knew of him; yes, I know him.

Q. Did you sell him oil in 1901?—A. We sold some oil to him.

Q. Were you selling him oil at Falls Church at 7 cents a gallon in 1901 [handing witness a slip of paper]?—A. Well, sir; I would not say by that ticket whether I was or not.

Q. Is not that a Standard Oil ticket?—A. That is a Standard Oil ticket; yes, sir.

Q. Was that the name of one of your drivers at that time?—A. Weinegar.

8889 Q. Is his name signed to that?—A. Yes, sir.

Q. Is that his signature?—A. Yes, sir; that is his signature.

The paper is marked "Petitioner's Exhibit 915."

Mr. KELLOGG. I offer this ticket, Petitioner's Exhibit 915, in evidence.

Q. Is that the form of ticket you used?—A. Yes, sir.

Q. And that purports to have been a sale of 80 gallons of oil at 7 cents a gallon, does it?—A. Yes, sir.

Q. If you were selling oil at Falls Church at that time, in 1901, at 7 cents a gallon, the price would be 5½ cents in Washington, would it not?—A. There is no question of that.

Mr. ROSENTHAL. Let me see that paper, Mr. Kellogg.

The paper was handed to Mr. Rosenthal.

Q. Now, refreshing your memory from that ticket, which you say is in the handwriting of one of your salesmen, would not you say that oil was selling in Washington at 5½ cents in 1901?—A. It must have been, according to that; but, then, that man—I don't know whether it was or not. This man was not a man that you could depend upon very much, and it might have been selling at 7 cents in Washington.

Q. Were your drivers men that you could not depend upon?—A. Why, we used to get men that we could not depend upon sometimes, for a week or two.

Q. These had to be reported back to the Standard, hadn't they, to your office?—A. Yes, sir.

Q. You have no recollection of his having sold oil there at a false price, or a wrong price, have you?—A. I have no recollection of it; no, sir.

8890 Q. Never heard of it, did you?—A. No, sir; I don't know as I did.

Q. Now, that seems to have been on the 20th of November, 1901. Who was the Red "C" Oil Company?—A. The Red "C" Oil Company of Baltimore, W. H. Fehsenfeld, president.

Q. They were doing business in Washington at that time, were they not?—A. In 1901—no, sir.

Q. Weren't they doing business in Falls Church at that time?—A. They were doing a little business in Falls Church; yes, sir.

Q. Now, I show you a ticket to the same J. W. Brown, November 1, 1901, where the Red "C" oil was selling at 11¼ cents. Do you remember that circumstance?—A. I will tell you; as far as J. W. Brown is concerned, it does not cut any figure, because Mr. Brown would buy of them—that is, of the Red "C" Oil Company—if it was 20 cents a gallon. He was prejudiced against the Standard Oil Company.

Q. Then he was actually paying 11¼ cents to the Red "C" and 7 cents to your company. Who cut the price then, you or the Red "C"?—A. That is the barrel price, you must understand.

Q. I will come to that. There is not a difference of 4¼ cents, is there, a gallon, between the barrel price and the tank-wagon price?—A. Not at a rule; no, sir.

Q. Was he buying from the Red "C" Oil Company at 11¼ cents at that time?—A. I could not tell you what he was paying the Red "C" Oil Company.

Q. Don't you recollect that he was, during all that summer?—A. He was buying oil of the Red "C" Oil Company, but I don't
8891 know what his prices were.

Q. Don't you know that it was a very much higher price than yours?—A. I don't know anything about his price.

Q. And don't you know that you cut the price to 7 cents?—A. No, sir.

Q. What is your recollection about it? You say he would buy at almost any price of the Red "C" rather than buy of you?—A. Yes, sir.

Q. Was that the reason you made him a 7-cent price?—A. Mr. Brown was not the only party up there. There was a general price made up there. It was not made to Mr. Brown specially.

Q. I show you another ticket, December 11, 1901, a ticket from the Standard Oil Company at 7¼ cents, I should say; maybe it is 7¼; 7¼, I guess it is. Do you know that ticket?—A. 7¼—yes, I know that ticket.

Q. That is Mr. Yarbrough?—A. Yes, sir; I know his signature; Mr. Yarbough.

Q. That is your driver, is it?—A. He was.

The ticket was marked Petitioner's Exhibit 916.

Q. That looks like your tank-wagon ticket, doesn't it?—A. Yes, sir.

Mr. KELLOGG. I offer that in evidence.

Q. I show you another, by the same Yarbrough, October 2d of the same year, I should say it was, in 1902, but in ripping it out it has

evidently been partially torn; 7 cents, J. W. Brown. Do you know that signature?—A. Yes, sir; the same as the one on the previous ticket there.

8892 The ticket was marked "Petitioner's Exhibit 917."

Q. I show you a ticket, October 15, 1902, from the Red "C" for 11½ cents.—A. Yes, sir.

Q. Do you remember that they were selling oil at that price?—A. I don't know anything about their price, never asked Mr. Brown in reference to their price in any way.

Q. You did not keep track of Mr. Brown's purchases?—A. No, sir.

Q. Didn't you say a few moments ago that Fehsenfeld's company, the Columbia Oil Company, or whatever you call it, cut the price to Mr. J. W. Brown?—A. No, sir; I don't think I used Mr. Brown's name, but he made a general cut.

Q. Were you selling it to the other merchants there at Falls Church for 6½ or 7 or 7½ cents a gallon during the years 1901 and 1902?—A. I could not tell you the exact prices, sir, during those years; there were so many changes I can't remember them.

Q. What was oil selling for in Washington in 1900 and in 1899?—A. I could not tell you, sir.

Q. Was it not selling for about 10 cents a gallon?—A. I could not tell you.

Q. Up to about the time Mr. Baughman went into business with the Independent Oil Company?—A. I could not tell you what the prices were.

Q. You do recollect that the price went down very low in 1901?—A. My recollection is it went down to 6½ cents. Those tickets you produce——

Q. He was in business about two years?—A. About two years.

Q. Then he sold out or went out of business, anyhow. Now, do you remember Mr. Nicolai?—A. Yes, sir.

8893 Q. He had a business there in Washington?—A. Yes, sir.

Q. In 1886 and 1887?—A. Yes, sir.

Mr. CRAWFORD. 1886?

Q. 1886 and 1887, down to 1895, the time you went there?—A. 1895; yes, sir.

Q. The Standard bought him out in 1895, didn't they?—A. I understood so.

Q. And didn't they run his plant there for a number of years, in his name?—A. Yes, sir.

Q. And did you manage it?—A. No, sir.

Q. Who did?—A. Nicolai Brothers.

Q. It was owned by the Standard Oil Company?—A. Yes, sir.

Q. Advertising that it was an independent company?—A. I don't think so, sir.

Q. Did it advertise that it was a Standard Oil concern?—A. I don't think it advertised at all.

Q. Went on selling as Nicolai Brothers?—A. Yes, sir.

Q. It certainly did not advertise that it was Standard Oil, did it?—A. I don't think it did.

Q. For years that company did business there as Nicolai Brothers, owned by the Standard Oil, didn't it?—A. It did business there for several years, yes, sir; I have forgotten just how long.

Q. Well, it was owned by the Standard Oil Company?—A. Yes, sir.

Q. Now, were not Nicolai Brothers, or whatever you call the name of their concern, in business in Washington selling oil before the Standard went there at all?—A. I don't know whether they were or not. I am not positive of that.

8894 Q. What?—A. I don't know which was there first.

Q. Then, when you said that the Standard Oil Company went there before anybody else, you did not know what you were talking about, did you?—A. I did not think about Nicolai Brothers. It was so long ago I had forgotten about them.

Q. They did not last very long after the Standard went in there, did they?—A. They lasted, I guess, five or six or seven years.

Q. Do you know when the Standard commenced to sell there?—A. No; I don't know what year they did begin.

Q. One of the brothers, L. S. Nicolai, started another company, didn't he?—A. Yes, sir.

Q. What did he call his company?—A. The National.

Q. When did he commence?—A. He commenced, I think, in 1905.

Q. Immediately the price of oil went down again, didn't it?—A. No, sir; I don't think it did.

Q. Did not oil go down in 1905? Weren't you selling oil in the summer of 1905 at 7½ cents in Washington?—A. I could not tell you those prices. There have been so many changes I don't remember them.

Q. His company lasted about two years, did it?—A. About two years.

Q. Do you remember the Dixie Oil Works?—A. I have heard of them.

Q. Did they start to do business in Washington?—A. I believe they did start to do business over in Rosslyn.

Q. Had a station at Rosslyn?—A. Yes, sir.

8895 Q. About what time?—A. Shortly after the Columbia went into business over there—the Columbia Oil Company.

Q. Immediately after or shortly after the Columbia Oil Company went into business, this Dixie Oil Company appeared, did it?—A. Yes, sir.

Q. That was owned by the Standard, too, was it not?—A. I could not tell you, sir.

Q. Didn't you think it was, didn't you understand it was?—A. It was on the street for several days before I knew that it was there.

Q. You understood it was a Standard Oil concern, didn't you?—A. I understood later that it was a Standard Oil concern, but not when it was over there.

Q. That appeared right after the Columbia came in there didn't it?—A. Yes, sir.

Q. What year was that?—A. That was in 1905, I think.

Q. Do you remember the Home Safety Oil Delivery?—A. Yes, sir.

Q. When did that start business there?—A. That must have started business there about 1903, I think, or 1902, I am not positive of that.

Q. 1902, wasn't it?—A. Somewhere in that neighborhood.

Q. That was owned by the Standard Oil, too, wasn't it?—A. I understood so later; yes, sir.

Q. Didn't you know it at the time?—A. I positively did not.

Q. You heard it shortly afterward, didn't you?—A. Oh, yes; I heard it.

Q. They bought their oil from the Standard, didn't they?—
8896 A. They did, and paid cash for it.

Q. And you found out afterward that it was a Standard concern, didn't you?—A. Yes, sir.

Q. So that whenever an independent would start to do business in Washington, one of these Standard companies, under some assumed name, would come in and start in the same place. Is not that true?

Mr. ROSENTHAL. Wait a minute. I object to that, because it assumes something that the witness has not testified to.

Q. Is not that true?—A. I did not hear the question.

Q. Whenever an independent company started there, one of these bogus independents of the Standard would start at the same time, or about the same time?—A. Why, no, I can't say that; no, sir.

Q. They did start about the same time, didn't they?—A. The Dixie was the only one that started, and that started after the Columbia and National——

Q. Immediately afterward, too, didn't it?—A. A short time afterward.

Q. There was not a great while elapsed. Now, the Home Safety also appeared, too, didn't it?—A. That appeared before any opposition appeared there. That was on the streets long before any competitor.

Q. Had not Baughman started in?—A. That was there before Baughman started in.

Q. What companies were doing business there when the Home Safety started in?—A. I think the Standard was the only company doing business there at that time.

8897 Q. The only company?—A. That is my recollection.

Q. What independents are in there now?—A. The National——

Q. The National?—A. I mean the Columbia. I beg your pardon.

Q. The Columbia is the only one, is it?—A. That is the only one, yes, sir.

Q. Now, you say that barrel oil is usually sold at 2½ cents a gallon above the tank-wagon price?—A. Yes, sir.

Q. Isn't it the other way?—A. Barrel oil is sold at 2½ cents above the tank-wagon price.

Q. Above the tank-wagon price?—A. Yes, sir.

Q. Delivered?—A. Yes, sir.

Q. 2½ cents a gallon?—A. Yes, sir.

Q. Are you sure of that? Why would a man pay 2½ cents a gallon more for barrel oil than he would for tank-wagon oil?—A. Why, on account of the barrel.

Q. He pays for the barrel, doesn't he?—A. Yes, that is where the difference in the price comes in.

Q. Then you take out the price of the barrel?—A. Yes, sir.

Q. And it sells for the same, doesn't it?—A. The net price would be practically the same.

Mr. ROSENTHAL. That is what they aim at, isn't it?

WITNESS. Yes, sir.

Q. Isn't it a fact that at equal prices a man will buy delivered from the tank wagon before he will delivered from a barrel?—A. At equal prices, yes, as a rule.

Q. That is, I mean equal prices, allowing for the barrel?—A. Yes, sir.

Q. Equal net prices?—A. Yes, sir.

8898 Q. So that a quarter or a half cent under your price was not a cut at all, was it?—A. Why, yes; it was a cut.

Q. Now, you say that the Columbia reduced the prices to those towns around Washington to the same as the Washington price?—A. Yes, sir.

Q. They did not cut your price in Washington, did they?—A. With the exception of this man Acton, that I know of.

Q. Where was his place?—A. In Anacostia.

Q. That is not Washington, is it? That is over across the bay?—A. Oh, no; it is a near suburb of Washington; it is practically the same as Washington now.

Q. Where did the Columbia Oil Company have its station?—A. At Rosslyn, Virginia.

Q. It was nearer those places where the price was cut than you were, wasn't it?—A. Anacostia is about as far away from Rosslyn as you can get in the District.

Q. I am laying that out of the way. I say that is the only case you know of in Washington where you say they cut the price?—A. I beg your pardon, I thought you had reference to that.

Q. But the towns outside, Rosslyn, Arlington, Brickhaven, and those places where you say they reduced the price to the Washington price, were much nearer their plant than yours?—A. Yes, sir.

Q. And they made the same price there that they made in Washington?—A. Yes, sir.

Q. And that is the only way they cut. Now, when Nicolai started his second company, his National Oil Company, what oil did you sell?—A. I could not tell you, sir.

8899 Q. Where did he get his oil?—A. I think he got it from Pennsylvania. At least, he told me so, himself, personally.

Q. Wasn't it Texas oil?—A. I could not tell you that.

Q. You don't know. Well, his company only lasted a short time, about two years?—A. About two years.

Q. And he committed suicide, didn't he?—A. That is right.

Q. Went broke?—A. Yes, sir.

Mr. ROSENTHAL. He cut the price too low, Mr. Kellogg.

Q. Wasn't he drawing a salary from the Standard for years, doing no business?—A. I could not tell you that.

Q. You don't know that?—A. No, sir.

Mr. ROSENTHAL. Neither does Mr. Kellogg. He is just guessing at that.

Q. Now, was the Dixie competing against your company when you went in there?—A. I don't know anything about the Dixie, sir.

Q. Well, it was selling oil, wasn't it?—A. Yes, it was selling some oil.

Q. And Baughman commenced about that time?—A. Oh, I think Baughman was out of business at that time.

Q. You said it started immediately after Baughman?—A. No; immediately after Nicolai.

Q. Immediately after the Columbia?—A. Immediately after the Columbia—Nicolai.

Q. Oh, yes, I am mistaken. What price was the Dixie selling at?—A. I could not tell you, sir.

Q. It did not interfere with your trade, did it?—A. I don't remember.

8900 Q. You have no recollection of the Dixie selling your customers any?—A. I know they solicited our trade; yes, sir.

Q. But you don't know of their getting any?—A. They sold to some of our customers, but I could not tell you just who they were now.

Q. They did not cut prices to you, did they?—A. Not to me personally; no, sir.

Q. Or to your company?—A. We had nothing to do with them at all.

Q. Did they cut your customers' prices?—A. No, sir.

Q. The Dixie did not. Do you know whether they cut the Columbia's or not?—A. I don't think they did.

Q. Do you know that they did not?—A. I don't.

Q. Do you know anything about it?—A. I don't.

Q. I think you said you don't know anything about their business.—A. I don't know.

Q. Well, you don't know anything about whether the Dixie went in there and cut the Columbia or not?—A. No, sir; I don't. I never heard of them cutting it, though.

Q. You don't know anything about it?—A. No, sir.

Q. Did the Home Safety Oil Company cut your prices?—A. No, sir.

Q. They never cut your prices?—A. No, sir.

Q. Do you know whether they cut Mr. Baughman's or not, the Independent Oil Company's prices?—A. I don't think they did; no, sir.

Q. Do you know whether they did or not?—A. No, sir; I don't.

Q. Then say so. You don't know anything about it?—A. I don't know anything about it.

8901 JAMES R. LYLES, called as a witness on behalf of defendants, being duly sworn, testified as follows:

Direct examination by Mr. CRAWFORD:

Q. Where do you live?—A. Alexandria, Virginia.

Q. What business are you in?—A. Tank-wagon driver.

Q. For what?—A. For the Standard Oil Company.

Q. Where?—A. I travel in Alexandria and the vicinity of Alexandria.

Q. What towns in the vicinity of Alexandria do you reach besides Alexandria itself?—A. I travel to Del Rey and St. Elmo, but the post-office is St. Elmo. The tickets are made out St. Elmo post-office.

Q. And what other places in that neighborhood?—A. Arlington, Barcroft, Baileys Crossroads——

Q. Any others?—A. Annandale, Linconia, Seminary—theological seminary; that is all, sir.

Q. Do you take in Falls Church?—A. No, sir.

Q. Do you take in Vienna?—A. No, sir.

Q. Or Fairfax Courthouse?—A. No, sir.

Q. Purcellsville?—A. No, sir.

Q. How long have you been employed in your present position?—A. Seven years and about eight months.

Q. In the same territory?—A. Yes, sir.

Q. Prior to that time what business were you in?—A. I was a house painter; working at house painting. That is my trade.

Q. You were not in the employ of the Standard Oil Company?—A. No, sir.

8902 Q. And had you ever been in the employ of the Standard before that time?—A. Never knew anything about them, sir.

Q. About how many customers do you supply, as a rule?—A. I suppose about 75, taking a rough sketch of it, sir.

Q. Where do you fill up your tank wagon?—A. From the graduating tank station at the Standard Oil Company's place.

Q. In Washington?—A. In Alexandria.

Q. Then you drive around Alexandria or out into the country to these different points?—A. Yes, sir.

Q. Delivering?—A. Yes, sir.

Q. Where do you get the prices at which you sell oil?—A. I get my prices from the subagent, Mr. Beans, and he gets them from the agent at Baltimore.

Q. He is the subagent at Alexandria?—A. At Alexandria.

Q. Have you any authority to deviate from those prices?—A. None whatever, unless I get orders from Baltimore.

Q. You sell from day to day at the prices which are fixed for you by Mr. Beans?—A. Yes, sir; until I get other orders.

Q. Until you get orders to the contrary?—A. Yes, sir.

Q. Has that been true all the time that you have been a tank-wagon driver there?—A. Yes, sir; the same rule has always worked.

Q. Now, have you, as a fact, ever sold at any different price than that which was given to you by Mr. Beans or some other superior?—A. No, sir; I have not.

Q. What is your recollection as to how the price which you have charged under instructions, as you have stated, compared with
8903 the prices set by your competitors? Has there been any instance in your recollection when the Standard's price—that is to say, your price which you were charging under instructions, was lower than that of the competitor?—A. Yes, sir; when my price was lower than that of the competitor.

Q. Yes; when your price was lower than that of the competitor.—A. No, sir; I never have.

Q. What competition have you in there?—A. The Columbia Oil Company of Rosslyn.

Q. Is that the only competitor?—A. Then we have the Red "C." They have an agency there in Alexandria.

Q. But chiefly the Columbia?—A. The Red "C" handled barrel oil entirely. They do not do any tank-wagon trade at all in Alexandria.

Q. The Columbia has a tank wagon?—A. Yes, sir. They do a tank-wagon business.

Q. That is your principal competitor, isn't it?—A. Yes, sir.

Q. Have you ever known any instance where the Columbia Oil Company have cut the Standard's price?—A. Yes, sir.

Q. That is, I mean, has sold oil of the same grade below the Standard's price at the same time?—A. Yes, sir.

Q. You have known of such instances?—A. Yes, sir.

Q. Can you mention any?—A. In April, 1905, when they first came to Alexandria they came there with a reduction of price below the Standard Oil Company's price.

Q. What was the Standard's price at that time?—A. 8½ and 9 cents for oil—we handled two grades of oil—and 10½ for gasoline. I think that is what it was, as near as I can remember it.

8904 Q. You said 8½ and 9 for oil?—A. 8½ and 9 for oil. We handle two grades of oil in Alexandria—and 10½ for gasoline.

Q. At what prices did the Columbia offer oil?—A. They came and cut the price on oil one cent and made it 7½ on one grade—they claimed they had only one grade—and half a cent on gasoline, which was 10 cents.

Q. Do you remember any price cutting at Barcroft by the Columbia?—A. Yes, sir.

Q. When was that?

Mr. MORRISON. Where?

Q. By the Columbia, I mean—at Barcroft.—A. I think it was in 1905 or 1906. I disremember the date exactly, but they came and cut——

Q. Who came?—A. The Columbia Oil Company came and cut one-half cent below the Standard Oil Company's price.

Q. What were the Standard's prices before that?—A. The Standard's price at Barcroft was 8½ and 9 (we handled two grades of oil), and 10½ for gasoline, and they came and offered oil for 7½ and gasoline for 10.

Q. Do you know whether they made any sales?—A. Yes; they made some sales. I think they sold to most everybody, not all, on that country route.

Q. Did they sell to any of your customers?—A. Yes, sir. You see I don't cover all of that territory, all that route every day, every trip. I have different places where I go different days.

Q. You were just going there at that time, were you?—A. I
8905 was going on that trip; yes, sir. They sold to most everybody then at Barcroft.

Q. Did it have any effect upon your business?—A. Some; yes, sir.

Q. Did you lose any business by it?—A. Yes, sir; I lost one man entirely at Barcroft.

Q. Do you know anything about any cutting by the Columbia at Baileys Crossroads at about the same time?—A. Yes, sir; the same date.

Q. What did they do there?—A. They sold some there. They sold to two people, I think, there. There were only two concerns there.

Q. Did they get some of your trade?—A. Yes, sir.

Q. And how did they get it?—A. By this reduction of price.

Q. Now, do you know of any subsequent price cutting by the Columbia at Alexandria besides what they did at the beginning?—A. Yes, sir; they cut the price there several times on gasoline especially, but just the exact dates I could not recall.

Q. Do you remember anything in 1907—any cutting then that you recollect?—A. Yes, sir. In 1907 I think they cut gasoline from 14½ to 14. They made several cuts along there.

Q. Now, where you learned of these cuts by the Columbia, did you report the fact?—A. Always to Mr. Beans in our tank-wagon report.

Q. And what followed in regard to your price? Was your price changed?—A. Not then. Sometimes it would be two or three weeks, and sometimes never.

Q. Sometimes never, you say?—A. Never changed.

Q. That is, sometimes you met the cut after an interval and
8906 sometimes you did not meet it?—A. Yes, sir.

Q. Whenever you did meet it, to what point did you reduce your price?—A. A general reduction.

Q. But then, I say, how long did you reduce it, as compared with your competitor's?—A. Generally or always reduced it to the Columbia Oil Company's price.

Q. You met their price?—A. Yes, sir.

Q. You did not go below their price?—A. Never have.

Q. Do you recall any instance in your experience there and in that territory where you ever initiated a cut; that is, where you ever cut under the competitor's price?—A. Never have, sir.

Cross-examination by Mr. MORRISON:

Q. You would not do that, I suppose, would you?—A. Sir?

Q. You would not, under any circumstances, cut below a competitor?—A. No, sir; not if I never sold a drop of stuff.

Q. You would not do that, even if the price of oil went down at the refinery?—A. What is that, sir? I don't understand you.

Q. That would not be done, even if the price of oil went down at the refinery?—A. Well, not unless I got orders from the head authority; I never made any cut; I had no orders to do it.

Q. What you mean by that is that you don't know anything about why your superiors lowered or raised the price, do you?—A. No, sir; I can't, unless they——

Q. You simply followed instructions?—A. Followed instructions; that is all, sir.

8907 Q. I did not hear the first of your examination. Are you a tank-wagon driver at Alexandria?—A. Yes, sir.

Q. How long have you been?—A. Seven years and nine months, and I suppose a few days.

Q. At Alexandria all the time?—A. At Alexandria, Virginia, and vicinity.

Mr. CRAWFORD. He said in the vicinity; he mentioned a number of small places he had in the vicinity.

Q. And all that time you have been a tank-wagon driver?—A. Yes, sir.

Q. And have you been under Mr. Beans during that entire time?—A. Yes, sir.

Q. You have a station there at Alexandria, have you?—A. I have not. Mr. Beans is the agent there.

Q. The Standard, I mean, has a station there?—A. Yes, sir.

Q. Has storage tanks there?—A. Yes, sir.

Q. You deliver your oil, I suppose, in tank wagons to the dealers?—A. Yes, sir.

Q. You do not sell to consumers there at all, do you?—A. None whatever.

Q. Has anybody been there selling to consumers—any peddlers—direct?—A. We have peddlers there; at least we have not, but there are peddlers there in Alexandria.

Q. They buy their oil from you?—A. From the Standard Oil.

Q. They maintain to the trade, do they, the same price that the dealers do?—A. Of course they have their prices. I don't know what they sell for one-half the time.

8908 Q. What peddlers have been there buying oil of you during the time that you have been at Alexandria?—A. Buying oil of the Standard Oil Company?

Q. Yes.—A. J. D. Brown.

Q. Is he there yet?—A. Yes, sir.

Q. How long has he been there?—A. He was in business before I went there. I could not tell you how long he has been there.

Q. Under what name is he doing business?—A. J. D. Brown.

Q. Who else?—A. Ernest Hamilton.

Q. How long has he been there?—A. He was in business before I went with them.

Q. And he is there yet?—A. Yes, sir; and Pete Hanretty; but he is dead now.

Q. When did he die?—A. He has been dead about a year, I suppose.

Q. And he did business up until the time of his death?—A. Yes, sir.

Q. What other peddlers are there there?—A. That is all, sir.

Q. And all of these peddlers were buying all their oil from you?—A. Buying their oil from the Standard Oil Company, not from me. I have nothing to do with the peddlers myself.

Q. When I say you I mean the Standard Oil Company. There were no other companies doing business in Alexandria aside from the Standard and the Columbia Oil Company?—A. The Red "C." They have an agency there for barreled oil.

Q. Has anybody a tank in Alexandria except the Standard?—A. No, sir.

Q. How does the Columbia deliver its oil?—A. By tank wagon.

8909 Q. But it ships it in there in barrels?—A. No, sir; brings it from Rosslyn in tank wagon.

Q. How far is that from Alexandria?—A. I judge it is about seven miles.

Q. They draw it in in tank wagons?—A. Yes, sir.

Q. Do you know what the price of oil and gasoline was in Washington in the year 1905?—A. No, sir; I know nothing at all about Washington.

Q. Don't you know that in that year, in Washington, the price ranged from 7½ to 8¼ cents?—A. I know nothing about Washington. We do not have anything to do with Washington.

Q. What were you selling oil for in Alexandria during the year 1905?—A. I think it was 7½ and 8¼.

Q. Were you not selling oil as high as 10¼ in the month of January, 1905, in Alexandria?—A. 10¼—I never sold oil on a quarter of a cent in my life.

Q. Didn't you sell oil in January, 1905, in Alexandria for 10¼ cents?—A. I never sold from tank wagon for 10¼ cents in my life.

Q. What did you sell for?—A. We either sold at ¼ cent or whole cent prices.

Q. You never sold at a quarter?—A. Never have.

Q. To the grocers?—A. Not on the tank wagon.

Q. Did you sell for 10 cents in January or February or March, 1905?—A. I don't know; I can't call that to recollection. You see we handled two grades of oil at Alexandria. I can't exactly tell you.

8910 Q. Well, any grade—the best grade you had?—A. I won't be positive about that, sir; I can't recall the date.

Q. During the month of April weren't you selling oil in Alexandria for 9½ cents?—A. April of what year?

Q. April, 1905.—A. For 9½?

Q. Yes, 9½.—A. Yes, sir; I think we were.

Q. Weren't you selling in May of that year for 8½ cents?

Mr. CRAWFORD. What grade of oil?

Mr. MORRISON. Any grade that they sold.

Mr. CRAWFORD. Well, they sold two grades, at two different prices.

Q. I want to know whether you sold any grade at that price?—A. At 8½?

Q. Yes.—A. I can't answer that question exactly, sir, because I don't remember the dates. I can't recall the dates to mind.

Q. Well, is that about what you remember the price to be?—(No answer.)

Q. When did the Columbia go into the Alexandria market?—A. In 1905, in April.

Q. In April, 1905; and didn't your price immediately drop from 10 cents to 9½ in the month of April?—A. After they came in and cut, we met their price.

Q. You immediately went down to 9½?—A. After they cut, sir.

Q. And did they cut it after that?—A. Yes, sir.

Q. They went lower, did they?—A. Yes, sir.

Q. Did you follow the cut down?—A. Some little while after.

Q. How low do you get down?—A. 7½.

Q. You got down to 7½. What month was it that you went

8911 down to 7½?—A. Probably May or June, somewhere along there. I can't say exactly the date.

Q. May or June?—A. Probably somewhere along there.

Q. So you got down from 10 to 7½ there in about three months?—A. We met their price when they cut.

Mr. CRAWFORD. Following their cuts down?

WITNESS. Following their cuts; yes, sir.

Q. Did you sell oil at a profit there at 7½ cents a gallon?—A. I don't know, sir, what the oil cost us. All I do is to sell oil on the orders I get.

Q. You don't know anything about that?—A. No, sir.

Q. Do you know what the price was in Washington for these same months that I have been questioning you about?—A. I know nothing about the Washington price.

Q. Don't you keep any track of Washington prices?—A. No, sir; I have no way to tell about that. We have nothing to do with them.

Q. Is your price based on the Washington price?—A. No, sir; we get our prices from Baltimore, from the main office.

Q. I know; but don't you know that during the time that you were selling in Alexandria for 10½ cents a gallon you were selling in Washington for 8 or 8¼ cents a gallon?

Mr. CRAWFORD. He has not said he sold for 10½ cents in Alexandria.

WITNESS. I know nothing about the Washington price, sir.

Q. Was there not a difference of as much as 2 cents between your price and the Washington price?—A. I don't know anything about Washington, sir.

8912 Q. How did you learn the price that the Columbia was selling oil for?—A. Whereabouts?

Q. In Alexandria.—A. When I went around to the trade, people would tell me what price they were getting it for.

Q. The dealers would tell you?—A. The storekeepers; yes, sir.

Q. You gave a list of peddlers that sold in Alexandria while you were there. Were there any companies that were also selling at retail?—A. No, sir.

Q. Were there any companies that were selling to the dealers during that period?—A. Only the Red "C." They sell barreled oil there.

Q. You gave the Red "C," but aside from those that you gave?—A. No, sir.

Q. Was the Dixie in there ever?—A. No, sir.

Q. The Home Safety?—A. No, sir.

Q. Do you know what the peddlers were selling for in Alexandria?—A. Retailing it for?

Q. Yes.—A. No, sir; I don't know their prices.

Q. You don't know their prices?—A. They make their own prices.

Q. I know, but you are around among the trade. Don't you learn anything about their prices?—A. Well, it never concerned me, and I never asked about it, because I have nothing to do with the retail business.

Q. You know nothing about what the peddlers were selling it for there?—A. No, sir.

Mr. CRAWFORD. The peddlers sell to consumers, don't they?

WITNESS. Yes, sir.

Mr. CRAWFORD. And you have nothing to do with the consumers?

8913 WITNESS. No, sir. I sell only to the stores. I have nothing to do with the consumers.

Q. You say that in 1905 the Columbia reduced the price to 8¼ cents?—A. To 8¼, did you say?

Q. Yes; didn't you—or 9 cents for oil?—A. Repeat that again. I don't understand you.

Q. You said that during 1905 the Columbia reduced the price to 8¼ cents?—A. Yes, sir.

Q. And 9 cents for oil, and 10 cents for gasoline?—A. The Columbia had only one grade of oil, and they came down there with a cut, from 9½ to 8½.

Q. They cut it a cent, you say?—A. They cut it a cent on oil and half a cent on gasoline.

Q. Were you selling that same grade of oil at the same time?—A. I don't know what grade they were selling. All I know is what grade I was selling.

Q. Were you both selling the same grade there at that time?—A. I don't know. I have no way to tell.

Q. What was their brand that they were selling?—A. They called it Water White.

Q. And what was your brand?—A. We call our cheaper grade of oil Diamond White, and the other grade Aladdin.

Q. Your best grade was Aladdin?—A. Off the tank wagon; yes, sir.

Q. Did they sell simply under the name Water White, or was there some other brand name to it?—A. Their representative called it Water White, 150 test.

Q. Under what name did they sell it?—A. Water White.

8914 Q. During the entire time, as I understand you, that you were with the Standard, that is, running back about seven years, they have had three peddlers on the streets there?—A. They have not had them.

Mr. CRAWFORD. Who?

Q. No; but they are selling oil to the peddlers.—A. They sell the oil to these people and they sell it for themselves.

Q. These three peddlers?—A. Yes, sir.

Q. And are there three peddlers there now buying their oil of the Standard?—A. No, sir.

Q. There are two now?—A. Only two now. One of them is dead.

Q. Since the death of this one you have spoken of?—A. Yes, sir.

Q. Do those peddlers settle with you for the oil that they get of the Standard Oil?—A. They settle with Mr. Beans, or the clerk in the office.

Q. You don't know anything about what they pay for it, do you?—A. Do I know anything what they pay for it?

Q. Yes.—A. No, sir.

Q. And you don't know what they get for it?—A. No, sir; I don't know what their prices are.

Q. You have nothing to do with that branch of the business?—A. I have nothing to do with that branch of the business; no, sir.

Redirect examination by Mr. CRAWFORD:

Q. So far as you know, has the Standard had, or has the Standard now, anything to do with these peddlers, except to sell

8915 them oil?—A. Nothing whatever, sir.

Q. Do you know whether the Columbia Oil Company made any claim in regard to the quality of what they called Water White

oil, as to it being equal to any oil you sold or not?—A. Yes, sir; on one occasion.

Q. What did they say?—A. Their agent said they would guarantee their Water White to be 150 fire test.

Q. Did they say anything about it being as good as any oil that you sold?—A. They always have claimed it was better than ours.

Recross-examination by Mr. MORRISON:

Q. Better than your best grade?—A. They claim it is.

Q. Who told you that they said that their oil was better than your best grade?—A. Why, I just heard the merchants talk about it, sir.

Q. Oh, you heard talk around, among the merchants?—Yes, sir; they would tell me.

Q. The Columbia people never said anything to you about it?—A. The Columbia man never has, because I never met him.

Q. You do not know whether the Standard Oil Company has any other interest in these peddlers than to sell them oil or not, do you?—A. I know they have not.

Q. How do you know?—A. Because I know Mr. Brown and Mr. Hamilton run the business themselves, and pay for the oil when they get it, and I know they have no interest in it.

Q. You don't know whether they have any arrangement with Mr. Beans or not, do you?—A. I could almost swear they have not.

8916 Q. You don't know anything about it, do you?—A. Well, I have not seen any papers or anything to that effect.

Q. No; you have never seen any papers, but you don't know what arrangements? You are simply a tank-wagon driver, that is all you are, isn't it?—A. Yes, sir.

Q. And the man who actually handles these peddlers is Mr. Beans, isn't he?—A. Oh, I have handled them myself sometimes when he has been off sick.

Q. Yes; but that is his business and not yours, isn't it?—A. Oh, yes; that is his business.

Q. You do not supervise their work in any way, do you?—A. No, sir.

Q. They do not report to you, do they?—A. No, sir.

Q. And you do not come in contact with them in the trade?—A. No, sir; I do not wait on them or anything.

Q. So you don't know anything about what arrangements they may have with somebody else?—A. No, sir.

By Mr. CRAWFORD:

Q. You know they pay the Standard for the oil they buy, don't you?—A. I know they pay cash for it, right then and there.

Q. And you never heard of any suggestion from anyone, did you, that they were owned or controlled by the Standard Oil?—A. No, sir.

Q. Aren't they men who have lived there a long time?—A. Yes, sir; born and raised in Alexandria, the same as I am.

Q. And been in this business of peddling for many years, haven't they?—A. Yes, sir; and the father of one of them was in business before him, a crippled fellow, this fellow Hamilton.

8917 Mr. MORRISON. They seem to have gotten along pretty well with the Standard.

Mr. CRAWFORD. Yes; they have, just as everybody else has, except soreheads.

Mr. KELLOGG. You had better testify to that.

8918 C. G. PURSE, called as a witness on behalf of defendants, being duly sworn, testified as follows:

Direct examination by Mr. CRAWFORD:

Q. Where do you live?—A. Baltimore.

Q. You are in the employ of the Standard Oil Company there, I believe, are you?—A. Yes, sir.

Q. And what is your position?—A. I am manager of the city station tank-wagon department, east side of the city.

Q. And how long have you been in that position?—A. Since February of this year.

Q. Prior to February of this year where were you employed?—A. In Washington.

Q. By whom and in what capacity?—A. I was employed by the Home Safety Oil Delivery, manager of the Home Safety Oil Delivery, of Washington, D. C.

Q. For what period?—A. I was there from 1901—about April or May, 1901, until the first of February of this year.

Q. You were at one time employed at Havre de Grace, Maryland, weren't you?—A. Yes, sir.

Q. When was that?—A. That was in 1900.

Q. And what was your position there?—A. I was with the Paragon Oil Company.

Q. Do you know a man by the name of Barnes there?—A. Yes, sir.

Q. Who was a dealer at that time?—A. Yes, sir.

Q. What was he—a grocer?—A. He was representing the Red "C" Oil Company.

8919 Q. He was an agent of that company?—A. Of the Red "C" Oil Company.

Q. At any rate, he sold Red "C" oil?—A. He sold Red "C" oil, claiming that he was agent for the Red "C" Company.

Q. And sold that in competition with the Standard Oil Company?—A. With the Standard Oil Company; yes, sir.

Q. Was the Standard Oil Company there also at that time?—A. The Standard Oil Company was there, yes, sir.

Q. And the Paragon?—A. Yes, sir.

Q. Mr. Mahle, a witness called by the Government, testified to the effect that at that time the Paragon Company made a special effort to club—I think he said "club"—Mr. Barnes into buying the Standard goods. Now, do you know anything about any competition in

which Mr. Barnes played a part there?—A. Our prices were always equal. There was not any cutting on my part, to acquire any of the consuming business at Havre de Grace. He claimed that he was selling two grades of oil, claimed that he was selling a grade equal to the grade that I was selling, and a superior quality of oil for 2 cents a gallon more.

Q. His ordinary grade he sold at the same price as yours?—A. At the same price as mine.

Q. Or yours was sold at the same price as his?—A. Yes; but he used an argument to sell the best grade of oil at the same time, because I suppose his object was to get 2 cents a gallon more; but that quality of oil I did not consider, in my opinion, any better than the grade of oil that I was handling, and insisting on the trade
8920 to use the brand of oil that I was selling, and found it to be equal to any oil they ever bought in Havre de Grace; and when I could show them, by buying one gallon from me, to convince them of the fact, why, it was a matter of saving that money to buy from me; and later on Mr. Barnes did not push the superior quality of oil that he tried to push on the people for two cents a gallon more, and then came down to one grade of oil; and in my opinion I thought he only handled the one grade of oil at all times.

Q. Well, at any rate, you did not reduce your price any to get business from Mr. Barnes?—A. No, sir.

Q. So far as you got any of his trade, you did it by persuading his customers that your oil was as good as his?—A. Yes, sir. I always sold at a profit, and the storekeeper's price was usually the same.

Q. What was the oil that you tried to sell to his customers, which you told them was as good as his best oil?—A. The Aladdin brand of the Standard Oil Company.

Q. That is your Water White oil, is it?—A. Yes, sir.

Q. When you left Havre de Grace, was Mr. Barnes still in business?—A. Still there, yes, sir.

Q. Still representing the Red "C" Oil Company?—A. Yes, sir, and he is still there representing the Red "C."

Q. Now, what became of the Paragon Oil Company at that place?—A. I sold it to a townsman at Havre de Grace by the name of Irving Ivins.

Q. Do you know what he did with it?—A. He conducted the business for some time until he went in business—in the grocery business—with a brother-in-law, and he sold the oil business to a
8921 man by the name of DeJoy, who I understand is still operating the business at Havre de Grace, but I am not positive of it.

Q. At any rate, it was sold by you to one Irving Ivins, and that was a regular out and out sale, was it?—A. Yes, sir.

Q. And that is the last you had anything to do with it?—A. That is the last I knew anything about the Paragon.

Q. Now, Mr. W. J. Metzel, a witness for the Government, who said he had been a salesman for the Red "C" Oil Company, gave some testimony about the conditions at Havre de Grace, and among other

things he said that the Paragon would sell oil both to consumers and to dealers; go from house to house, and at times would sell oil to the consumers at 7 cents a gallon, when the price of the Red "C" and the Standard's price was 8 cents a gallon, to storekeepers. Now, did the Paragon sell to consumers at all while you were in Havre de Grace?—A. The Paragon sold to consumers alone.

Q. Did the Paragon sell to dealers, I mean?—A. No dealers; no, sir.

Q. But sold only to consumers?—A. Only to consumers.

Q. Did it at any time while you were there sell oil to consumers at 7 cents a gallon?—A. No, sir.

Q. And you say it never sold to dealers?—A. Never sold to dealers.

Q. Retail shopkeepers?—A. No, sir; not to retail storekeepers.

Q. What were its prices to consumers, do you recollect?—A. I think it was 9 cents. The wholesale price was running about 7 cents at that time.

Q. At any rate, it was higher than the current market price to the storekeepers?—A. Always; yes, sir.

8922 Q. Where did the Paragon get the oil which it sold there under your management at Havre de Grace?—A. Delivered by the Standard Oil tank wagon to the stable.

Q. Was that true during the entire time?—A. Yes, sir; that is while I was with the Paragon at Havre de Grace.

Q. While what?—A. While I was with the Paragon at Havre de Grace.

Q. Mr. Metzel testified that after the Paragon was sold the man who ran the wagon (by whom, I suppose, he meant Mr. Ivins) got a cent a gallon rebate from the Standard Oil Company's tank wagon. What have you to say about that?—A. If he did I don't know anything about it?

Q. Was a peddler entitled to some allowance?—A. Usually a peddler bought oil about half a cent to a cent below the current price by going after his product.

Q. He would be entitled to that, anyway, under the custom of the trade?—A. Yes; by going for his product, his supplies, oil, and gasoline; by going to the tanks for it.

Q. Do you know whether the Paragon Oil Company is still in existence or not?—A. No, sir.

Q. Is the business which succeeded to it there now?—A. I understand it is, but I am not positive.

Q. Isn't there a man named DeJoy there?—A. DeJoy; yes, sir.

Q. I mean in charge of that business.—A. Yes, sir.

Q. That is your understanding, isn't it?—A. Yes, sir.

8923 Q. Mr. Metzel further testified, after saying that the Paragon disappeared from Havre de Grace, that the Paragon Oil Company went to New Windsor, Maryland; Taneytown, Maryland, and Union Bridge, Maryland; that a man named Purse had charge of it in those three towns. Is that true?—A. That is not true, I believe.

Q. You have one or two brothers, I believe?—A. I have two brothers.

Q. Was either of them in charge of the Paragon Oil Company at either of those places?—A. No, sir; never.

Q. Or anyone else of your family?—A. No, sir.

Q. And you know that the Paragon Oil Company was not in business in those three places?—A. It was not.

Q. Did you yourself ever peddle any oil in New Windsor, Taneytown, or Union Bridge in the same way that you did at Havre de Grace?—A. How is that?

Q. Did you yourself peddle oil at New Windsor, Taneytown, or Union Bridge? Mr. Metzel testified that you peddled oil, according to my memorandum here, at New Windsor, Taneytown, and Union Bridge in the same way that you had at Havre de Grace.—A. I did not; no, sir; but I sold oil at Union Bridge, but not in the same way that the Paragon did at Havre de Grace.

Q. What did you do about it?—A. I was representing J. H. Repp and Company.

Q. What kind of business did they do?—A. In the hardware business and farm implements and sort of a general store; handled oil and other things that went along in some of the household equipment, but they did not handle groceries.

Q. How did the oil business come in there?—A. They
8924 always handled oil—lubricating oils and refined oil and gasoline.

Q. To what class of trade did they sell?—A. To the consuming trade.

Q. By that you mean from their store?—A. From their store; yes.

Q. Not as a peddler?—A. Not as a peddler; no.

Q. Where did John H. Repp & Company get their supply of oil?—A. They bought from the Standard Oil Company.

Q. What period is that you are speaking of?—A. The latter part of 1900. I suppose that was from about the first of September or probably a little earlier, probably July or earlier, but it was only a period of about three months.

Q. Now, Mr. Metzel stated in regard to you that you cut prices at Union Bridge, Taneytown, and New Windsor a cent or more for the purpose of getting business. Is that so?—A. No, sir; it is not.

Q. What was the fact about your prices there?—A. John J. Repp was selling for 12 cents a gallon and he maintained that price.

Q. What grade of oil at 12 cents a gallon?—A. Aladdin.

Q. What was the Red "C" charging?—A. The Red "C" was selling in barrels to the retail grocers, and they bought barreled goods from the Red "C" and they marketed one grade for 12 cents and the other for 14 and 15, but the price generally was about 14 cents for the superior grade of oil, as they claimed, the White "C" oil.

Q. What did they call that superior grade?—A. White "C."

Q. That was a fancy brand?—A. That was a fancy brand,
8925 which they claimed to be their fancy grade.

Q. Which they claimed was a little better than grade oil, and they marketed it at a fancy price. Your price was 12 cents for Aladdin?—A. Yes.

Q. Which is the same as their regular brand?—A. The same as their regular brand.

Q. Did you solicit business that time from some of the same customers who were buying from the Red "C"?—A. I solicited from house to house, irrespective of any trade. I didn't know who was buying Red "C" or any other brand. I solicited some of the same customers who were buying at that time from J. H. Repp.

Q. And what argument did you use in order to get business?—A. When I first started out I found that the customers would say that the oil they were buying was the Red "C" oil and better than the Aladdin brand which was sold by the Standard Oil Company to the grocerymen. I started in to introduce the Aladdin brand and sold them a gallon, for a sample, to try it.

Q. You mean to the consumer?—A. To the consumer. And I advised them to take two lamps and fill one with Aladdin oil and the other with White "C" oil, the best brand, and see if they could distinguish any difference in the burning of the two lamps; and on my second visit I always found that they could not see any difference, and then they always said there was no use of paying the 2½ cents difference in the price. So after that I made customers. They said they had been misled by the grocerymen as introducing oil to
8926 them as a superior oil and getting a better price for that brand.

Q. Did you cut your price there in order to get that business?—A. No, sir; I did not. It was not necessary to cut the price.

Q. At any rate you did not?—A. No, sir.

Q. While you were connected with the Home Safty Oil Delivery at Washington did you have any competition?—A. Yes, sir.

Q. With the consuming trade?—A. Yes, sir.

Q. What competitors had you?—A. Hellman & Company, Columbia Oil Company, the National Oil Company, and about twelve different peddlers.

Q. You mean that the National Company had wagons selling to the consuming trade?—A. They would sell to the consuming trade right from the wholesale wagon.

Q. At any rate, they sold to the consuming trade?—A. They sold to the consuming trade.

Q. And the Columbia also, you said?—A. The Columbia would sell five gallons to any five-gallon consumer.

Q. When did you leave Washington?—A. The first of February of this year.

Q. There was still a great deal of competition there, was there?—A. Yes.

Q. A large number of peddlers still there, peddling?—A. The Columbia was there, the Hellman Oil Company, and twelve different peddlers.

Q. Twelve different peddlers, all of whom had survived the conflict, had they?—A. Yes, sir; still surviving.

8927 Q. That was in this year, 1908?—A. Yes, sir.

Q. Now, while you were selling there to consumers, how did the prices made by the Home Safety Oil Delivery compare with the prices made by these other peddlers or these other competitors whom you named?—A. The twelve peddlers and the Hellman Oil Company got a better price where they could, but to our customers alone they would charge the same price and sometimes undersell to get the business. They would make a difference of a cent a gallon to the consumer to get our business away from us.

Q. You also came in competition with stores, did you not?—A. Yes, sir.

Q. And what was the fact about the prices of the stores as compared with your prices?—A. Some stores always sold at our price and some would cut the price and display a bulletin in front of the store announcing the price of oil and gasoline, which would be generally under our price.

Q. Where that was not done, or in the case of most of the storekeepers, what was the fact about the prices?—A. We sold at the same price.

Q. Now, so far as you know, did you cut under the price of the storekeepers?—A. No, sir.

Q. To the consumers?—A. To the consumers.

Q. Well, did you cut the prices of your competitors in the peddling trade, so far as you know?—A. No, sir; we had one price to all the customers, which was the price displayed on our wagons, for oil and gasoline.

Q. From whom did you get the prices which you charged to

8928 your customers when you were with the Home Safety?—A. From the Dixie Oil Works.

Q. And did you yourself have any option about the prices you were to charge—any discretion?—A. No, sir; I had nothing to do with it.

Q. You just obeyed orders, did you, on prices?—A. I obeyed orders at all times; yes, sir.

Q. When you met with cuts in prices by your competitors did you report them?—A. I did.

Q. What followed, usually?—A. Why, we never cut the price; we always maintained our price right along.

Q. Did you ever reduce your price?—A. We did not.

Q. You maintained your price?—A. We maintained our price. If we lost business on their cut price, why, we had to lose it.

Q. As a matter of fact, through these various cuts that you speak of, did you from time to time lose business?—A. I did.

Q. Did you have any practice in regard to displaying the prices of your oil and gasoline?—A. We displayed the price on the signboards of our delivery wagons—on either side—plainly to be read many yards distant.

Q. That is, the price of the kerosene or refined oil and also the price of the gasoline?—A. Yes, sir.

Q. And did you sell according to the prices that were displayed there?—A. We did.

Q. In what form did you deliver the oil to the consumers?—A. In one-gallon patent cans.

Q. How did the storekeepers generally deliver their oil to
8929 consumers?—A. They delivered in the customer's can, by the customer bringing their can to the store.

Q. How did the peddler deliver his oil?—A. He delivered his from the tank wagon, and would measure the oil out and put it into the can belonging to the customer, and often in cans belonging to the Home Safety Oil Delivery.

Q. You mean the cans that you had previously delivered?—A. Delivered; yes, sir.

Q. Did you find any customers that had any preference in regard to different cans?—A. They did. They liked the can of the Home Safety Oil Delivery because it was an unspillable can, and it was a convenient can, with a spout to it, and it was not necessary to use a funnel in filling a lamp. Just pick up the can and put the spout in the lamp and fill the lamp, without any extra handling. Another advantage was that the housewife preferred to use the one-gallon can in preference to the five-gallon, because it did not have the weight in pouring oil into the lamp or stove, as compared with the five-gallon can.

Q. Did you find that can was popular with the customers?—A. Very. The customers would take that in preference to using their own can.

Q. Did you find that cut some figure in getting business?—A. Oh, decidedly. You would also save the expense of some customers buying an oil can, which otherwise they would have to do if they bought oil from the stores.

Q. What became of these cans after they were emptied?—A. Returned to us.

8930 Q. In exchange for full cans?—A. In exchange for full cans.

Q. Now, since February, 1908, you have been in Baltimore, I believe?—A. Yes, sir.

Q. In charge of the tank-wagon station?—A. Yes, sir.

Q. You are in charge of the tank wagons which serve the trade?—A. The trade on the east side of Baltimore; that is, the corner of Canton evenue and Eden street.

Q. Your wagons do not serve consumers?—A. They do not; no, sir.

Q. They are confined only to storekeepers?—A. Storekeepers only.

Q. Now, what other companies are competing for that same trade in the part of Baltimore that you have charge of?—A. The Red "C" Oil Company, Crew-Levick Oil Company, the National Oil Company, and the Southern Oil Company, which is owned by the National, and stables in the National's yard, and visits the trade in general on the

East Side, by the National wagon visiting the customer in the morning or any part of the day, representing the National, and the Southern wagons, with C. H. Mahle's name on either side, visiting the same customers, representing the Southern Oil Company.

Q. Well, at any rate, these wagons with "Southern" on do business under that name?—A. Represent themselves as the Southern.

Q. Though you say they are owned by the National?—A. By the National; yes, sir.

Q. Is the National Oil Company, which you speak of, the one with which Mr. Finlayson is connected?—A. Yes, sir.

8931 Q. Now, do you know of any instance in Baltimore where one of your competitors had offered a lower price to customers of yours?—A. Yes, sir; a grocer by the name of Katz, 1421 East Mine street. I noticed on my record books that he had discontinued buying. I have an arrangement by which I look over the record books, or have a clerk look over the record books, every two weeks, and a purchaser that shows no purchases in that period I call on him to see what the trouble is. So I noticed that he hadn't bought for two weeks. I went around to see Mr. Katz and I went around on my tank wagon with the driver and took the tank-wagon man right in the store, because I was afraid he might want to say that the tank-wagon driver had done something to poison him from buying from the company. He said, "Mr. Purse, you know that I am a merchant." He said, "I have always bought oil from the Standard Oil Company, but now I can buy oil and gasoline at a half cent under the Standard's price, and, being a merchant, I must take advantage of the deduction." I said, "Mr. Katz, I am awfully sorry to lose your business, but I know business is business, and, of course, I regret to see you go." I said, "I think the quality of the oil is well worth the difference." He said, "It doesn't make any difference to the groceryman as long as he gets his price and he can buy his goods at the right price." My driver was present when he made that statement.

Q. Did he say from whom he could get the reduction?—A. The National Oil Company.

8932 Q. Did you lose that trade?—A. Lost it—yes, sir; I have not regained it. I have been to see him since, but he says he is still getting the reduced price, and when the National puts the price up he will come back and buy from the Standard.

Q. Do you know of any other instance?—A. A customer at 109 Front street.

Q. What is his name?—A. His name is Zeles. That is a lady merchant there—Mrs. Zeles.

Q. Was Mrs. Zeles a customer of the Standard before?—A. She was buying from the Standard, yes, sir, right along.

Q. Is she a customer now?—A. She is not.

Q. You lost her?—A. I haven't sold her anything for two months or more.

Q. To whom have you lost her?—A. To the National.

Q. Why?—A. On a cut price of a half a cent a gallon on oil.

Q. Do you know whether there are any other customers?—A. I know of lots of cases where they say they are buying at half a cent less, but I have no proof that they are. They wouldn't acknowledge the fact.

Q. Have you lost other customers there who used to be formerly served by you?—A. Yes, sir; several.

Q. Who is selling them oil now?—A. The National.

Q. And they say they are getting their oil at half a cent less?—A. At half a cent less; but the ticket, I notice, is made out at the regular Standard price—the current price in the city.

Q. Do you know of any case where the National Oil Company has offered any other inducement than a reduction in price?—

8933 A. They have offered tanks of different capacities to induce the customer to buy from them. In case they have a tank which is an old tank, they tell them that they can give them a right new tank gratis if they will buy oil from them.

Q. Have they ever done that with any of your customers?—A. They have done that, yes, sir; and I lost the customer and lost the trade—especially new stores. I have had an instance where a new store would write or telephone to send the agent in reference to tanks. When I would get there I would want to charge them for the tank, and they would say, "No; I can get a tank for nothing." They said, "I would rather buy from you folks if you will give me a tank, but if you don't I am going to buy from the National, because they will give me a tank," and of course I lost the new business.

Q. Do you know of anything similar being done by any other competitor?—A. Yes, sir; being done by the Red "C" and Crew-Levick.

Q. What do you know about the Red "C" in that connection?—A. Well, the drivers bring the tanks and deliver the tanks gratis. Of course I take it for granted when the drivers do it it must be the company back of them.

Q. The Red "C" drivers offer these tanks?—A. Offer these tanks; yes, sir.

Q. Have they offered any of them to your customers?—A. Yes, sir.

Q. Have you lost any trade in consequence?—A. I can't say that I have lost any directly to them; but I have had the annoyance about the tank question.

8934 Q. What is there about the Crew-Levick Oil Company doing the same thing that you have mentioned?—A. They offer tanks of 30 and 60 gallons capacity to the trade and as an inducement to get business from any of our customers that buy from the Standard.

Q. Mr. Mahle testified substantially to this effect; that the Home Safety Oil Delivery was used as a club over the other peddlers not to leave the Standard Oil Company, from which they had purchased their goods, as otherwise the retail wagons of the Home Safety Oil Delivery would make a special drive for the consuming trade they had taken care of. Was that statement true, while you were in charge of the Home Safety Oil Delivery in Washington?—A. No, sir.

Q. Or did you also say that you were with the Home Safety in Baltimore?—A. Yes, sir.

Q. Well, was it true there?—A. No, sir.

Q. Was it true that, under your management at least, the Home Safety Oil Delivery made any special effort to get the consuming trade of peddlers who did not purchase their supplies from the Standard Oil Company?—A. No, sir.

Q. Did you ever receive any instructions to use the Home Safety Oil Delivery for any such purposes?—A. No, sir.

Q. Mahle testified, in substance, that the Home Safety wagons in Baltimore were used at times as a threat to the grocery trade that if they bought from independent companies, the Home Safety would become aggressive in their district. Was the Home Safety, to your knowledge, ever used in any such way?—A. Never.

8935 Q. Or was it so used while you are in charge of it?—A. No, sir.

Q. What was your custom in regard to soliciting trade?—A. Soliciting from house to house, irrespective of anybody's trade, to gain trade on pure solicitation.

Q. Everywhere?—A. Everywhere in general; yes, sir; all over the city.

Q. Without reference to who might previously have sold them?—A. Yes, sir.

Q. Did you ever receive any instructions to use your wagons for the purpose that Mr. Mahle referred to?—A. No, sir.

Q. As a threat to anybody?—A. No, sir.

Cross-examination by Mr. KELLOGG:

Q. Where were you first in business?—A. Seaford, Delaware.

Q. What was the name of your concern?—A. Seaford Oil Company, owned and controlled by the Crew-Levick Oil Company, of Philadelphia.

Q. Didn't Purse Brothers own it?—A. No, sir.

Q. Did you sell out your business?—A. We didn't have any oil business.

Q. You never did any oil business yourself?—A. Not under the Purse Brothers or C. G. Purse.

Q. Did you have any form of name there in Seaford—your own business?—A. My own business?

Q. Yes.—A. I didn't have any business.

Q. When did you go to work for the Paragon Oil Company?—A. I went to work for the Paragon Oil Company in the first of 1900.

8936 Q. Where?—A. At Seaford.

Q. Then where did you do business with the Paragon?—A. At Havre de Grace.

Q. Where else?—A. Nowhere.

Q. At Seaford who owned the Paragon Oil Company?—A. A man by the name of Horn, at that time. He was a representative and the only one that I knew at that time as the owner of it.

Q. What time are you talking about?—A. Talking about the time it was in Seaford.

Q. Didn't the Standard Oil own it?—A. Not to my knowledge.

Q. Didn't they buy it?—A. No, sir.

Q. Never owned it while you were with it?—A. Never owned it while I was with it.

Q. Never heard of their owning it?—A. Never heard of their owning it.

Q. Do you know of a man by the name of Bender?—A. I have met him.

Q. What was his business?—A. He was connected with the oil business.

Q. Did he have anything to do with the Paragon?—A. Not to my knowledge.

Q. He never did while you were with it?—A. He didn't have any connection in the sale of it after I bought it or when I bought it.

Q. Did you buy the Paragon?—A. I bought it; yes, sir.

Q. Whom did you buy it of?—A. I bought it of a man by the name of Horn.

8937 Q. Where did you get your oil when you bought the Paragon?—A. When I bought the Paragon I turned it right over and sold it to my brother.

Q. What brother?—A. Artie Purse.

Q. Did he run it?—A. He ran it after that; yes, sir.

Q. During the time it was at Seaford and at Havre de Grace?—A. No, sir; he only ran it under the name of Artie Purse when he bought it.

Q. I know, but when you ran the Paragon Oil Company at Havre de Grace who owned it? Can you tell me that?—A. A man by the name of Horn.

Q. Where did he live?—A. I don't know where he lived; I never heard.

Q. Where did he find you?—A. Found me on the streets of Seaford selling oil.

Q. But you don't know where he came from?—A. No, sir.

Q. Or where he went to?—A. Nor where he went to, and I didn't care.

Q. Nor did he say?—A. I didn't know anything about it.

Q. During the time you were running the Paragon Oil Company for Mr. Horn, where did you get your oil?—A. Why, it was shipped there.

Q. From whom?—A. I don't know whom it was shipped from only by Mr. Horn.

Q. Wasn't it the Standard Oil Company?—A. No, sir. Never had any marks on the barrels.

Q. Where did it come from?—A. It came from Baltimore.

8938 Q. So Mr. Horn and the oil came from Baltimore, but that is all you know about it?—A. As far as I know.

Q. Don't you know that it was a Standard Oil secret concern?—A. No, sir; I didn't know it.

Q. You never heard it?—A. There were other companies besides the Standard Oil Company.

Q. Have you ever seen Mr. Horn since?—A. No, sir: I have not.

Q. You don't know where he went to when he sold out?—A. I do not.

Q. When you sold the Paragon you sold it to a man by the name of De Joy?—A. No, sir; I did not.

Q. To whom did you sell it?—A. To Mr. Irving Ivins.

Q. Was he a Standard Oil man?—A. No, sir; never in the oil business before.

Q. Where did he get his oil?—A. He bought from the Standard Oil Company at Havre de Grace.

Q. Now, when did you last see Mr. Horn?—A. About six years ago, I presume.

Q. Six years ago?—A. Six or seven years ago.

Q. And where did you make your settlements; where did you send your money for oil that you got?—A. Sent it to Mr. Horn.

Q. What address?—A. Sent it to a post-office box.

Q. Post-office box in Baltimore?—A. In Baltimore.

Q. Do you know whether he had an office there or not?—A. I do not; I didn't ask him.

8939 Q. Never asked him any questions?—A. No, sir.

Q. And the oil was simply shipped in barrels, without any marks?—A. Without any marks.

Q. From Baltimore?—A. Well, the mark—it had on it the brand of oil.

Q. That is all?—A. That is all, and the date of inspection.

Q. Do they call them blank-head barrels?—A. I don't know what they call them, because I didn't pay any attention to the head of the barrels. All I was looking after was the proper receipts.

Q. And all your mail you addressed to a post-office box?—A. Post-office box.

Q. What was the number; do you remember?—A. I do not remember the exact number; a small number, like 58, I think it was.

Q. Now, you commenced with that company at what time?—A. I was only with them just a short period in 1900.

Q. Immediately after that you commenced to sell oil in Union Bridge?—A. No, sir; I did not.

Q. How long after?—A. It was the late fall. It was about July, August, or September of 1900.

Q. Whom were you working for then?—A. Working for J. H. Repp & Company.

Q. Where did they live?—A. Union Bridge, Maryland.

Q. Did they sell in New Windsor and Taneytown?—A. They sold in New Windsor; yes, sir.

Q. Did you sell in New Windsor, Taneytown, and Union
8940 Bridge?—A. I peddled in Union Bridge and New Windsor.

Q. You did not in Taneytown?—A. No; I didn't peddle.

Q. What do you mean by that?—A. I said I was there soliciting or peddling.

Q. Where did Repp get their oil, do you know?—A. Of the Standard Oil Company.

Q. Did the Standard Oil Company own them, do you know?—A. I think not; no, sir.

Q. You didn't know Mr. Bender at that time?—A. Why, I can't say whether I knew him at that time or not. I think I met him shortly after that; I am not sure.

Q. Do you know Blaustein?—A. I have met him.

Q. Did either one of them have any business with you in relation to the Paragon?—A. No, sir.

Q. None whatever?—A. No, sir.

Q. None but this man Horn?—A. Horn.

Q. What was Horn's first name?—A. Why, I don't know his first name.

Q. Where did Horn live?—A. He lived in Baltimore somewhere, but I didn't know where; I didn't know his address, never heard.

Q. Well, if the Standard Oil owned it, they kept it pretty secret, didn't they?—A. Owned what—the Paragon?

Mr. CRAWFORD. I object to that question, because the witness has denied that the Standard owned it.

Mr. KELLOGG. There has been any amount of testimony that they did.

Mr. CRAWFORD. Not by this witness.

8941 Mr. KELLOGG. No, but by plenty of others, and your own witness, too. I suppose you are trying to dispute your own witnesses now, are you?

Q. Now, let us come to this other secret company, the Home Safety Oil Company. The Home Safety Oil Delivery, that was called?—A. The Home Safety Oil Delivery.

Q. Where did you start doing business with that company?—A. In Baltimore.

Q. In what year?—A. That was in 1901.

Q. And how long were you with that company?—A. About a year.

Q. Doing business in Baltimore all the time?—A. No; I guess not.

Q. Now, with whom did you do business—with the Standard Oil Company? Did you get your oil from the Standard Oil Company?—A. We got our oil from the Standard Oil Company.

Q. Who was manager of the Home Safety?—A. In Washington?

Q. No, in Baltimore, at the time you ran it.—A. Well, I don't know who was running it. We reported to 210 East Lexington street.

Q. What man did you report to?—A. What man?

Q. Yes.—A. Well, that was the office of Dixie Oil Works.

Q. Now, who was running the Dixie Oil Works at that time?—A. What do you mean—the whole period?

Q. At the time you were running the Safety.—A. Well, that changed.

Q. Who changed?—A. Changed our manager.

8942 Q. What do you mean by "our manager?"—A. The man that we reported to.

Q. Who were they?—A. Mr. Bender was in the office.

Q. Mr. Bender—that is what I thought. Mr. Blaustein?—A. No.

Q. Who was the other?—A. Why, I don't recall now just who, but Mr. Blaustein was never in there and never had any office in there.

Q. In the Dixie Oil Works?—A. But Mr. McKenzie was there.

Q. Mr. McKenzie and Mr. Bender?—A. And Mr. Bender.

Q. Anybody else?—A. No.

Q. Now, you reported to the Dixie Oil Works, did you?—A. I reported to 210 East Lexington street.

Q. Well, you didn't simply report to 210, you reported to somebody by name, didn't you?—A. Well, I never had any occasion to go there to report in person.

Q. Oh, you sent your reports?—A. I sent my reports; mailed them.

Q. To what address?—A. 210 Lexington street.

Q. Addressed to Dixie Oil Works?—A. No.

Q. Just addressed to 210?—A. 210.

Q. Then the man you were doing business with was 210 Lexington?—A. 210 Lexington.

Q. And no name whatever?—A. Well, that was where the envelopes were addressed to, 210 Lexington street.

Q. All envelopes furnished you were addressed 210 Lexington street, with no name on them whatever?—A. No name.

8943 Q. What was the necessity for this secrecy?—A. The necessity? There wasn't any necessity.

Q. Did you send in all the money you collected to that number?—A. No, sir; I did not.

Q. What did you do with that?—A. It was deposited.

Q. Deposited where?—A. In the bank.

Q. In what name?—A. Home Safety Oil Delivery.

Q. What bank?—A. Different banks.

Q. What did you do with your expenses and your bills, etc.? Did you pay them?—A. I paid them.

Q. Did you pay them out of the money you collected?—A. No, sir.

Q. How did you pay them?—A. I paid them by check.

Q. Who sent you the check?—A. The check was made up according to our pay roll and disbursements.

Q. I know; but did you draw the check yourself on an account?—A. I did at times.

Q. On what account? What name did you sign?—A. That was in the beginning of the Home Safety Oil Delivery.

Q. What name did you sign?—A. What name did I sign?

Q. Yes.—A. At that time I signed C. G. Purse, manager.

Q. The Home Safety Oil Company, C. G. Purse, manager?—A. Home Safety Oil Company, C. G. Purse, manager.

Q. Now, you paid the bills for running this business by signing checks on the bank, Home Safety Oil Company, C. G. Purse, manager?—A. At times; not all the time.

Q. The rest of the time, how did you do it?—A. Well, since the Standard came in possession of it——

Q. No; but before the Standard came in possession, when it
8944 was run as a secret company?—A. Why, the checks were mailed to us for a certain period.

Q. What period?—A. I can't tell exactly when such a change was made.

Q. Now, you went in there about 1901, you said, in Baltimore?—A. 1901.

Q. When you first started you signed checks for the expenses, pay rolls, etc., did you?—A. Yes, sir.

Q. Then after a certain length of time the checks were mailed to you?—A. Yes, sir.

Q. Now, how long a time was it?—A. I can't state just how long.

Q. A few weeks?—A. Oh, yes.

Q. A few months?—A. A few months.

Q. Then, how did the checks come to you?—A. They came to me direct.

Q. Signed by whom?—A. Well, I don't suppose that is necessary.

Q. Do you refuse to state?—A. No.

Q. Well, how were they signed?—A. They were signed Mr. Bender.

Q. C. W. Bender?—A. Yes.

Q. During the time you were in Baltimore checks were signed "C. W. Bender," were they?—A. How is that?

Q. From that time on, during all the time you were in Baltimore, checks were signed "C. W. Bender," were they?—A. No, sir; not all the time.

8945 Q. How were they paid the rest of the time?—A. They were paid since a certain period by the Standard Oil Company.

Q. Since what period, since when?—A. Since October 1, 1905.

Q. Yes, since October 1, 1905, when the Standard Oil Company came out in the open, then it signed the checks?—A. Signed the checks.

Q. Prior to that time they were signed "C. W. Bender," were they?—A. Part of the time.

Q. And the rest of the time by you, C. G. Purse, manager?—A. Part of the time; yes, sir.

Q. And the rest of the time how?—A. They were signed by the name of McKenzie and——

Q. Blaustein?—A. No, sir. Well, I guess that covers about the whole period.

Q. Now, during those years, until October, 1905, you never knew that the Standard Oil Company had any connection with the Home Safety Oil Company, did you?—A. Not directly; no.

Q. Were you informed of it?—A. I only heard people sometimes mention it, on the subject, but I never——

Q. Did you deny it?—A. Wouldn't have had any occasion to deny it.

Q. Did you hold the company out to your trade as independent?—A. I never had any occasion to.

Q. Did you advertise that you were a Standard Oil Company concern?—A. No, sir.

Q. You never did?—A. Never did.

Q. You addressed mail simply to the street number?—
8946 A. That is, prior to October 1, 1905?

Q. Yes, prior to October 1, 1905. Prior to that time you never advertised that it was a Standard?—A. I did not; I had not occasion to.

Q. Wasn't it charged by your competitors that it was a Standard concern?—A. No, sir.

Q. Never was charged that?—A. No, sir. I heard some of them sometimes mention about it, but I never heard them come out and say "You are a Standard Oil company."

Q. What did you say when they mentioned it?—A. I didn't have anything to say. I didn't hunt up conversations of any kind, because I was a busy man all the time. I cared not what was going on.

Q. Now, why was it that you were dealing with a street number and having your checks paid in that way? Will you tell me?—A. Why was I?

Q. Yes.—A. Because that is all I knew about it.

(An adjournment was here taken until the morning of Tuesday, September 15, 1908, at 10.30 o'clock.)

8947 ROOM 715, CUSTOM-HOUSE, NEW YORK CITY,
Tuesday, September 15, 1908, 10.30 a. m.

The hearing was resumed before the special examiner, Hon. Franklin Ferriss, at the above time and place.

Present on behalf of the petitioner, Mr. Frank B. Kellogg, Mr. Charles B. Morrison, Mr. J. Harwood Graves; on behalf of the defendants, Mr. Moritz Rosenthal, Mr. F. L. Crawford, Mr. Douglas Campbell.

C. G. PURSE recalled and his cross-examination resumed, as follows:

By Mr. KELLOGG:

Q. During what years was it that you were running the Home Safety Oil in Baltimore?—A. It was in 1901.

Q. When did you go to Washington?—A. I think it was in 1902 I went there.

Q. What time in 1902—the beginning of 1902?—A. The first part. part.

Q. When you were in business in Baltimore you have described that you reported to 210 Lexington avenue, wasn't it?—A. Street.

Q. Lexington street. Now, when you were at Havre de Grace and those other places with the Paragon, how did you remit your money that you collected?—A. Remitted it to a man by the name of Horn.

Q. This same man that you spoke of?—A. By post-office order.

Q. Every day?—A. Well, every two or three days, as it accumulated.

8948 Q. How were your expenses paid?—A. He paid them.

Q. By check?—A. It was taken out of the money. The profits were sent in.

Q. You took out the expenses?—A. I took out the expenses.

Q. And sent in the balance?—A. The balance.

Q. In Baltimore did you do the square-can business?—A. I did the square-can business; yes, sir.

Q. Gallon-can business?—A. Gallon-can business.

Q. You said you sold to everybody?—A. To the consuming trade.

Q. Generally?—A. The consuming trade.

Q. Where did you get the list of customers that was given to you to visit?—A. I went out and solicited them. I did not have any list given me.

Q. Weren't you furnished a list of customers?—A. No, sir.

Q. By Mr. Bender?—A. No, sir.

Q. You went out and solicited them?—A. Solicited them.

Q. Were you told what class of customers to visit?—A. No, sir; everybody in general.

Q. You did not know that you were working for the Standard Oil Company at all?—A. I did not.

Q. And did you visit Standard Oil customers?—A. I visited all customers.

Q. Did you visit Standard Oil customers?—A. I did not know which were Standard Oil customers, because they bought from the merchants.

Mr. CRAWFORD. The Standard Oil was selling to the trade, not to consumers.

8949 Q. You did not visit any merchants?—A. We did not wholesale. We did a retail business.

Q. You went right to the consumer?—A. Yes, sir; we went right to the consumer.

Q. And you did not know that the people you sold to were buying from the Standard Oil at all?—A. No, sir.

Q. You did not know anything about it?—A. I did not know anything about that.

Q. Who told you what part of the city or where to go?—A. Nobody.

Q. You went to anybody, anywhere you pleased?—A. I used my own judgment about that.

Q. Wandered around anywhere, did you?—A. I usually took one section and worked that thoroughly and then took another section.

Q. Did you visit every person in the street?—A. Everyone in line, from door to door.

Q. When you went to Washington—all you know about what other people were selling at is what the customers told you?—A. And the bulletins displayed in front of the grocery stores.

Q. You are talking about Baltimore now, are you?—A. No, sir; I am talking about Washington. That is what you said.

Q. I was asking about Baltimore.—A. You changed it.

Q. Did you visit all customers in Baltimore, all over the city?—A. When I was in Baltimore—all over the city.

Q. And when you went to Washington, did you visit everybody all over the city?—A. I did.

8950 Q. Where did you get your list of customers there?—A. I did not have any list.

Q. You did not know you were working for the Standard Oil?—A. I did not.

Q. And you don't know whether you sold to anyone that the Standard Oil was selling to or not? You don't know whom they were buying from?—A. I didn't know whom they were buying from, and I didn't care. I was looking after the extension of the Home Safety.

Q. Now, all you know about the price that your competitors sold at is what the customers told you?—A. The customers and bulletins that I saw placed in the grocery stores, and my drivers would come in and tell me, of course.

Q. While you were in Washington, who paid your bills, and to whom did you remit?—A. C. W. Bender, agent.

Q. He was running the Dixie Oil Works, wasn't he?—A. No, sir.

Q. Where was he?—A. I was running the Home Safety Oil Delivery.

Q. He was running there the Dixie Oil Works, wasn't he?—A. I don't know positively.

Q. Where was his address?—A. His address was 210 Lexington street.

Q. Then he is probably the man who was at 210 Lexington when you were simply mailing your statements to that address, wasn't he?—A. I could not say, because it was a post-office box.

Q. So, when you were in Washington, you addressed your mail to 210 Lexington street, C. W. Bender?—A. 210 Lexington street,

8951 or to the post-office box.

Q. To the post-office box?—A. To the post-office box.

Q. You did not name anybody?—A. No, sir.

Q. Did not name Mr. Bender?—A. At no time did I have occasion to, because the envelopes were always fixed.

Q. The envelopes were always addressed?—A. To the post-office box.

Q. To the post-office box—what number?—A. Well, I don't know the exact number, but it was a small number.

Q. And in all your business in Washington prior to the time that the Standard Oil Company took over the Home Safety in October, 1905, you simply addressed your communications to a post-office box in Baltimore?—A. In Baltimore.

Q. Where did you get those envelopes?—A. We had them printed, and then some we did not print, we just simply had a stamp; we stamped them.

Q. Who gave you the directions how to have them printed?—A. Mr. Osmond.

Q. What was his position?—A. He was a clerk.

Q. In what office?—A. 210 Lexington street.

Q. In Mr. Bender's office?—A. I presume so; I don't know.

Q. He gave you directions how to have them printed?—A. Yes, sir.

Q. What did he say to you about that?—A. He just said to send them to that number, or to the post-office; I don't remember.

Q. But not addressed to any individual, corporation, or
8952 company?—A. Well, I did not do that.

Q. Didn't he tell you not to?—A. No, sir.

Q. He just simply told you to address the number of a post-office box?—A. That is right.

Q. 210 Lexington?—A. I was going according to instructions.

Q. Now, was 210 Lexington a post-office?—A. It was not.

Q. Well, then, how would you address them to 210 Lexington if you addressed them to a post-office box?—A. That was at times. We did not send them all to the post-office.

Q. Part of the time they went to the post-office box?—A. I could use my own judgment about that.

Q. You had both addresses given to you?—A. Yes, sir; we could use either one.

Q. One was the box and the other was 210 Lexington; is that correct?—A. Yes, sir.

Q. During the time you were in Washington, how were your expenses paid?—A. You asked me that yesterday, I believe.

Q. No; I asked you that about Baltimore.—A. You asked me that yesterday about Washington.

Q. What you said applied to Washington, did it?—A. You asked me.

Q. And your expenses were paid by check of C. W. Bender?—A. That is what I told you.

Q. All right. Now, what price were you selling at in the square can in Washington?—A. 10, 11, 12, and 13.

Q. 5, 6, and 7?—A. Oh, no, sir.

Q. You did not sell for that?—A. I never did; no, sir.

Q. Never sold any oil at 5 or 6 cents a gallon?—A. No, sir.

8953 Q. Or 7 cents?—A. No, sir.

Q. Or 7½?—A. No, sir. I never had a 7½-cent price.

Q. You never did?—A. Not on square cans. You are getting down to wholesale business now.

Q. What do those square cans cost?—A. I don't know, sir. I never bought any and never paid for any, and I don't know anything about that.

Q. You don't know anything about that?—A. What they cost.

Q. You were not informed as to the expense of them?—A. I was not.

Q. You gave away a good many of those cans, didn't you?—A. We did not give them away; we loaned them.

Q. You lost a good many, didn't you?—A. Of course, we could not help but lose them.

Q. You lost a great many?—A. Our competitors were the ones that caused us to lose the most of them.

Q. You lost a good many of them, didn't you?—A. We lost a good many. We never got in the number we put out, of course.

Q. And you never got paid for them, of course?—A. We did not make any charge.

Q. Whether the can was returned or not, the customer was not charged for it?—A. We did not make any charge for the can.

Q. Whether it was returned or not, did you?—A. Whether it was returned or not.

Q. They were expensive cans, weren't they?—A. Well, there was an arrangement, as an inducement to get the can back—on occa-
8954 sions of running short of cans we offered a cent on the return of the can to us.

Q. Oh, you offered a cent, and the can held a gallon?—A. Yes, sir, the can held a gallon.

Q. That would be a cent a gallon for the return of the cans?—A. We allowed a cent commission on the can to get the can back quickly when we were short of cans.

Q. So you gave away the cans whenever they were not returned?—A. We loaned the cans; never gave any away.

Q. Loaned the can and gave a cent a gallon to return it?—A. That was an inducement to get the cans back as soon as they were empty.

Q. They held a gallon each, didn't they?—A. Yes, sir.

Q. You gave a cent apiece for the return of them to you?—A. We gave a cent on the return of the can to the company.

Q. Whenever you delivered a can you got the other can back, didn't you?—A. Not always.

Q. You were supposed to?—A. We were supposed to get the can. The customer was supposed to return the can, but when we would call to make the delivery the can would be half full or a quarter full. The customer would not have sufficient oil to run over until the next trip. They would want to retain that can and get another.

Q. And you would give them another can?—A. We would loan them another can.

Q. Now, you did not go around and fill those cans from a larger can, but you delivered gallon cans full of oil, didn't you?—A. We did.

8955 Q. So that if the customer got a cent apiece for returning the cans it was equivalent to a cent a gallon, wasn't it, on the oil?—A. Usually; yes, sir.

Q. Now, all you know about your competitors in Washington is what the customers told you and what was bulletined on the grocery stores?—A. Exactly.

Q. What did you see bulletined on the grocery stores?—A. If we were selling oil for 10 cents a gallon, or 11 cents, they would be usually a cent under us.

Q. Then, did you meet that price?—A. No, sir.

Q. You did not?—A. We had one price to everybody, which was displayed on our wagons, and we did not make any discrimination in price.

Q. If they were a cent under you and you gave a cent for the return of each can——

Mr. ROSENTHAL. That is not what this witness said, Mr. Kellogg.

Q. Your price would be equal, wouldn't it?

Mr. ROSENTHAL. That is not what this witness testified to. He said on occasions when they were short of cans they would make a cent offer for each can returned.

Q. Didn't you advertise on your wagons while in Washington that you would give a cent apiece for the return of the cans?—A. At times.

Q. Didn't you all the time?—A. Not all the time.

Q. Didn't you nearly all the time you were in Washington advertise that?—A. No, sir; not nearly all the time.

8956 Q. How much of the time?—A. Well, I could not say.

Q. Can't you give us an idea?—A. I can not, because that varied. When we needed cans, we put out a bulletin, and got the cans in.

Q. Well, you did that a good deal of the time, didn't you?—A. We did it part of the time.

Q. What part?—A. I could not say what part.

Mr. ROSENTHAL. You have just asked him that.

Q. You did not know what the other peddlers were selling at, did you?—A. I did not care.

Q. You did not know, did you?—A. I did not know and I did not care, because they had various prices.

Q. There were other peddlers, were there not, peddling there?—A. Lots of them—still there.

Q. Now did you ever run any other secret companies for the Standard Oil Company?—A. I never ran any for them that I knew of.

Q. You know you did, now, don't you?—A. Since the Government is trying to bring out the fact.

Q. You have learned it?—A. Through you, and others.

Q. You have found out that you were then working for the Standard, haven't you?—A. Well, I am under the impression now, but I didn't know it at the time; was not conscious of any fact.

Mr. ROSENTHAL. You would not have regarded it as a criminal offense, if you had known it, would you?

Q. Now, were there any other companies that you——

8957 A. Excuse me.

Mr. ROSENTHAL. I say you would not have regarded it as a criminal offense, if you had known it?

WITNESS. Why, certainly not. There was no occasion—we always got a higher price all the time.

Q. How do you know you got a higher price all the time?—A. We got a higher price than the wholesale price.

Q. Oh, certainly you did, but you sold to the consumer, didn't you?—A. We did.

Q. The same man the wholesaler was selling to?—A. Yes, sir; but you are trying to make me believe that we reduced the price with the object of getting competitors out of the way.

Q. If the wholesaler did not get any lower price than you sold for, he would be losing some money, wouldn't he?—A. Well, I should think so, but we always sold at a price above the tank-wagon price, and that went to the merchant.

Q. Did the Home Safety Oil Delivery make any money?—A. I could not tell you that.

Q. You don't know anything about that? Did you know any Standard Oil drivers that were selling oil?—A. I did not come in contact with the Standard drivers. I had all I could do to handle my own.

Q. You did not know anything about the Standard drivers?—A. No, sir; I did not.

Q. Did not come in contact with them?—A. Did not come in contact with them, never talked with one of them.

8958 Q. And as far as you know, you never sold to any of their customers?—A. They did not have any customers only the merchants, and I did not sell to any of their customers.

Q. Do you know that the Standard were selling oil in Washington in 1901 as low as 5 cents a gallon?—A. I did not know anything about it. That was before my time.

Redirect examination by Mr. CRAWFORD:

Q. In the cases where you were informed by customers that your competitors had cut your price, did you lose any trade?—A. I did.

Q. You know that, do you, of your own knowledge, that you lost customers?—A. We had a regular route book, all the customers enrolled in that book, and when the book would show that they were not buying, I visited that customer, and they would absolutely tell me that they had a family, and if they could buy any commodity any cheaper they were obliged to do it, and were sorry they would have to leave us, but we lost the trade just the same to our competitors.

Q. And that you know of your own knowledge?—A. I do, as a fact.

Q. In relation to cans, you said something to the effect that you lost the cans through your competitors. What did you mean by that?—A. Why, they would steal them and pack them away in buildings, to keep us from having those cans to use in our business, to make our supply short; they would pick them up, gather them

8959 up as they would go along, load them on their wagon, and stow them away, and finally they would use them, carry one or two out at a time and punch a hole in it and fill it up and give it to the customer, putting it out then as their can. They would sometimes paint the can to take all the marks off that would show it as belonging to the Home Safety Oil Delivery, so that we could not claim it; and yet the patent spout by which we could always identify the can was attached to the can.

Q. You were brought up at Seaford, Delaware, weren't you?—A. Seaford, Delaware; yes, sir. That was my first venture in the oil business.

Q. What was the oil business that you were engaged in there?—A. I was employed by the Crew-Levick Company of Philadelphia.

Q. And did you manage a business there for them?—A. I did, under the name of the Seaford Oil Company.

Q. What time was that?—A. That was in the year 1899.

Q. Did you sell to the consumers or to the trade?—A. To the consumers and to the merchants, too. At that time the Standard was the only company there, and we solicited both the wholesale and retail trade.

Q. And you did business under the name of the Seaford Oil Company?—A. The Seaford Oil Company.

Q. Which was really owned by the Red "C" Oil Company?—A. Owned by the Crew-Levick Company of Philadelphia.

Q. I mean by the Crew-Levick Company.—A. Of Philadelphia.

Q. Did you tell people that the Seaford Oil Company was owned by the Crew-Levick Company?—A. No, sir; they thought that I owned it, because I was a townsman.

8960 Q. Was the fact known at all to the public that the Crew-Levick Company owned that Seaford Oil Company?—A. No, sir; I did not advertise the Crew-Levick Company—only the Seaford Oil Company, and they naturally supposed I owned the business because I was a townsman.

Q. So the Seaford Oil Company was a secret company or concern, run through you by the Crew-Levick Company?—A. Yes, sir; that was really my first experience in giving away cans or loaning cans to the trade, was through them.

Q. How long did you run the Seaford Oil Company under those circumstances?—A. Almost a year and a half.

Q. Who succeeded you in the charge of it?—A. My brother.

Q. Which brother?—A. Artie Purse.

Q. Did he run it in the same way?—A. No; I bought out the business then; I bought it from the Crew-Levick Company.

Q. Didn't he run it for a short time before you bought it?—A. He did, for a short time, until I bought it.

Q. And until you bought it he ran it in the same way, as a secret company, for the Crew-Levick?—A. For the Crew-Levick; yes, sir.

Q. Mr. Parsells testified yesterday, if I understood him, that the Dixie Oil Works opened business in Washington shortly after the

Columbia Oil Company came there. Now, were you in Washington at that time?—A. I was there with the Home Safety Oil Delivery; yes, sir.

Q. What is your recollection in regard to that?—A. I think he got a little mixed on that. The Dixie Oil Works opened up at
8961 Silver Spring, as I understood, in the beginning, and later came to Georgetown. That was about two months or two months and a half prior to the introduction of the Columbia Oil Company.

Q. While they were at Georgetown, did they supply the city of Washington?—A. Yes, sir. It all connects. It is only just designated Georgetown, and it all runs in together as one city.

Q. Then your recollection is that the Dixie was on the ground there two months, you say, before the Columbia Company began?—A. Exactly.

Q. And how long after the Columbia Company came did the Dixie remain?—A. That went out just about the time they came in.

Q. So Mr. Parsells is mistaken in his recollection?—A. He is mistaken in his recollection.

Recross-examination by Mr. MORRISON:

Q. Who stole your gallon cans over there in Washington?—A. The different peddlers.

Q. How do you know?—A. Well, they picked them up, although they did not have any right to them, and put them on their wagons.

Q. Who were they?—A. The different peddlers.

Q. Name somebody.—A. I saw them have them on all their wagons.

Q. Name some of them.—A. A man by the name of Walls.

Q. What is his first name?—A. I don't know his initials, but his name is Walls, and the Hellman Oil Company.

8962 Q. Just a moment—Walls was a driver for whom?—A. For himself.

Q. A peddler?—A. A peddler.

Q. You saw him have some of your cans?—A. On his wagon.

Q. On how many different occasions?—A. Every time I was on the street I could see them.

Q. Whom else did you see have any?—A. The Hellman Oil Company.

Q. Where does the Hellman Oil Company get its oil?—A. Of the Standard Oil Company's plant. They used to buy of different companies.

Q. How long have they been buying of the Standard?—A. I don't know that.

Q. Who else had your square cans? Whom else did you see have any of your square cans?—A. A man by the name of Stummell, a peddler.

Q. Do you know where he bought his oil?—A. He would buy it of the different companies.

Q. Buy of the Standard?—A. He did buy some; yes, sir.

Q. Did Walls buy of the Standard?—A. He bought at times, when he could not buy of anybody else.

Q. How do you know that he could not buy of anybody else?—A. There was not anybody else at times in the oil business to sell oil at wholesale.

Q. All these men, then, were buying of the Standard, more or less?—A. At times.

Q. And I suppose that you lost nearly all you cans, didn't you, at different times?—A. Oh, no; not nearly all.

Q. There was a constant loss going on all the time, that had
8963 to be replenished?—A. Some that we did not get back as quickly—we knew that the majority of them were safe with the trade, but we could not get them back as quickly as we would like to have them back. For instance, at this time of year people that go away early in the spring to their summer homes from Washington (it is a floating population there), they would keep their cans and lock them up until they came back in the fall.

Q. How many cans did you have out there at any one time?—A. I could not tell you. I did not keep any track of the number of cans that we had in stock.

Q. You had a can for every customer, hadn't you?—A. We had a can for every customer.

Q. About how many customers did you have at any one time?—A. I suppose we had 15,000—did not make any discrimination in the trade.

Q. How many wagons did you have?—A. Eighteen.

Q. Where were you buying your oil?—A. Getting it from the Standard Oil Company.

Q. Delivered to you at Washington?—A. Yes, sir.

Q. Shipped from Baltimore?—A. Originally.

Q. You think the Dixie opened up before the Columbia came there, do you?—A. Yes, sir.

Q. And that Mr. Parsells was mistaken about that when he said it opened up afterwards?—A. I think he was.

Q. Have you the date now when the Dixie did open up in Washington?—A. I have not the date, but I have some knowledge of about what time it was.

8964 Q. About when was it?—A. It was in the summer. I think it was probably August or September. I think they left there about October.

Q. The Columbia Company was building its tanks for some time before it opened up there, wasn't it?—A. No, sir, I don't think they did.

Q. What is that?—A. I think they acquired the National Oil plant, if I am right.

Q. Didn't they build their own tanks there?—A. I did not see them build them.

Q. And weren't they building them for more than three months before they actually commenced selling oil?—A. I could not say, because I was never over there to know what was going on. It did not concern me in the least. I was in the retail business.

Q. Where were they building their tanks?—A. I understood in Rosslyn, Virginia.

Q. Was the Dixie in Rosslyn?—A. They were not.

Q. How close were their works to the Columbia works?—A. I don't know. They started in at Silver Spring, to my knowledge, and afterwards came down to Georgetown. I did not follow them up, did not make it any of my business to know what they were doing. I happened to see their wagon on the street, and made inquiry about it.

Q. You say you got your first experience in giving away cans at Seaford?—A. I did.

Q. When you first started in the business?—A. With the Crew-Levick Company of Philadelphia.

8965 Q. You have been, then, with bogus companies, as you understand it, all your life?—A. I did not know they were bogus companies.

Q. No, but you know it now.—A. Since——

Mr. ROSENTHAL. It depends upon your definition of a bogus company, I suppose.

Q. You know it now, don't you?—A. No, I don't know it now. It is just as legitimate, I think, as——

Q. I am not asking you that.

Mr. CRAWFORD. Oh, yes, he has a right to explain when you apply the word "bogus."

Q. I am not asking whether they were legitimate.—A. Legitimate—to my knowledge they were.

Mr. CRAWFORD. You asked him whether they were bogus, and you have got to take the answer.

Mr. ROSENTHAL. Bogus means illegitimate.

Q. You think they were legitimate companies, knowing all that you know about them now, do you?—A. They were not illegitimate to my knowledge. They were legitimate businesses, all of them.

Q. All in legitimate business?—A. As far as I knew at the time.

Q. When you were running the Seaford Oil Works, or whatever you call it there, for the Crew-Levick Company, did you hold it out as an independent company?—A. I did not hold it out at all. I did not make any demonstration to anybody, as to who it was or what it was.

Q. How did you receive your oil—in barrels?—A. In barrels shipped down, 60 barrels to a car.

8966 Q. With the Crew-Levick's name on them?—A. Some were blank-head barrels.

Q. Some—how many of the barrels?—A. Some shipments would come in with the Crew-Levick's name on, and some would come with blank-head barrels.

Q. About what proportion of them were blank-head barrels?—A. Sometimes a whole car, 60 barrels.

Q. Do you know why that was?—A. I did not have any knowledge.

Q. Generally, they came with Crew-Levick's name on them?—A. At times.

Q. You were buying your oil directly from the Standard when you were running the Dixie?—A. I was never running the Dixie—never connected with the Dixie.

Q. You were not with that company at all?—A. No, sir.

Q. Do you know anything about where it got its oil?—A. I did not know anything about it.

Q. When you were in Washington, how did you get your oil?—A. As previously stated, we got it from the Standard Oil Company—the Home Safety Oil Delivery did.

Q. From their tank wagons?—A. At times; yes, sir.

Q. Do you know who paid the taxes on the Home Safety Oil Delivery Company?—A. I do not.

Q. You had nothing to do with that, had you?—A. I had nothing to do with it.

8967 LEMUEL WILMER, called on behalf of the defendants, being duly sworn, testified as follows:

Direct examination by Mr ROSENTHAL:

Q. Where do you live?—A. In Prince George County, Maryland.

Q. Whereabouts is that?—A. It is in southern Maryland, on the western shore of southern Maryland, on the Pennsylvania Railroad.

Q. How far from Baltimore?—A. About 50 or 60 miles from Baltimore. The post-office is Cheltenham, or T. B.

Q. What is your business?—A. I am in the lumber business for myself, sir.

Q. How long have you been in business?—A. Since October 23 of last year.

Q. And before that, what was your business?—A. Just previously to that I was with the Standard Oil Company, sir.

Q. Between what dates?—A. From October, 1905——

Q. Until October, 1907?—A. Until October, 1907; yes, sir.

Q. Do you remember the date in 1907 when you stopped working for the Standard?—A. Yes, sir.

Q. The day of the month?—A. The 22nd day of October.

Q. Prior to October, 1905, what were you doing?—A. I was with the Dixie Oil Works, as a general salesman.

Q. Where?—A. Traveling out of Baltimore, Maryland.

Q. Who was the manager of the Dixie?—A. Mr. Charles W. Bender.

8968 Q. And their principal office was where?—A. In Baltimore, Maryland.

Q. They were in the business of selling oil and gasoline, were they?—A. Yes, sir.

Q. You say you were a general salesman for the company, for the Dixie?—A. With the Standard Oil Company I was, but not with the Dixie. I was a refined-oil salesman.

Q. How did the Dixie Oil Company do its business?—A. They did it through traveling salesmen, and they would inaugurate and build up local stations. They would put in tank storage; sometimes they would have warehouses built and appoint some local man to distribute the oil for them in that particular community. Sometimes they would rent warehouses from people that were going to act as their commission agents, and would then pay them a commission. Sometimes a salaried man was put in charge of one of these local stations, and that was for the purpose, I suppose, of saving freight rates. They could ship, for instance, to one warehouse in North Carolina. They could ship a carload of oil there very much cheaper than they could ship a barrel or two, or anything less than a carload. Then the freight just to that local point, and in that State, would be less than if they made a direct shipment through from a distant point.

Q. They had storage tanks, had they?—A. Yes, sir.

Q. At their various local stations?—A. At some of them they had; yes, sir.

Q. And would store, perhaps, how much oil there on an average?—A. Oh, several carloads of oil; tank cars of oil.

8969 Q. Enough to run them for how long?—A. That would depend right much upon the business.

Q. Several weeks?—A. Oh, yes, sir; in some cases not quite so long.

Q. And in other instances where they had not storage tank facilities they had warehouses?—A. Yes, sir.

Q. Where the barreled oil was stored?—A. Yes, sir; they would ship it there in carload lots in barrels.

Q. And how extensive were those warehouses, so far as the supply was concerned?—A. Why, they were pretty evenly distributed over the territory covered by the Dixie, as I understand it. I did not cover all the territory of the Dixie.

Q. Would they carry enough oil in the warehouses to supply the particular community in that immediate vicinity for some weeks?—A. Yes, sir.

Q. And how was the oil sold from the storage tank?—A. From tank-wagon service.

Q. And how was it sold from the warehouses?—A. In barrels.

Q. And to whom?—A. To the merchants in the various communities in which they were located.

Q. You were a general salesman of refined oil?—A. With the Dixie?

Q. Yes.—A. Yes, sir.

Q. Where did you travel? What was your territory?—A. I traveled in what is known as the "Tidewater of Virginia," and what

8970 they call the "Lower and the Upper Neck." I can not define it by counties, but it was along the Potomac River and the

Rappahannock River, and the York River, and I also covered the district adjacent to the Southern Railway, from Alexandria to about 70 miles below Charlottesville, to a point near Oak Ridge. Then I would make a drive off in the mountains, a place where tank wagons never went, and I had barreled goods to sell and could sell them in those places. A little later on I covered a few points in Maryland.

Q. What did you do—solicit orders?—A. Yes, sir.

Q. How long were you thus engaged?—A. You mean my entire time with the Dixie?

Q. Yes, sir.—A. A little over a year.

Q. Then where did you go?—A. I was transferred to Norfolk as manager of the Home Safety Oil Delivery.

Q. Do you know a man by the name of Fehsenfeld?—A. I only know him when I see him. I know him very well by reputation.

Q. Were you ever in his employ?—A. No, sir; but I got an indirect offer to go with that company the first year that I was on the road. There was a Mr.——

Q. Without going into that in detail, when you were stationed at Norfolk, what did you do for the Dixie?—A. I was with the Home Safety Oil. I was managing the Home Safety Oil plant, and running exactly the same sort of business that Mr. Purse has testified to.

Q. What was the character of the business done at Norfolk and vicinity by the Home Safety?—A. Selling to housekeepers and
8971 to the consuming trade.

Q. Delivering in what?—A. Delivering in those little patent gallon cans; sometimes in 5-gallon cans, but the little patent can became so very popular that we eliminated the 5-gallon can; and some of our 5-gallon cans were stolen by the drivers of the National Oil Company, and I eliminated the 5-gallon can as soon as I could.

Q. How much of a plant did you have at Norfolk?—A. I had a stable and a feed room, all under one roof, and an office and a filling room.

Q. A warehouse?—A. And a warehouse. That was under one roof, and I had two tanks—three storage tanks.

Q. Of what capacity?—A. The entire capacity, as well as I can remember, was, I expect, about 50,000 gallons.

Q. That would run you along for what length of time in Norfolk?—A. That would vary. It would depend very much indeed upon the weather. In the cold weather oil sold very much better. In the hot weather it did not sell so much—housekeepers did not use so much oil.

Q. It would last for some weeks, would it?—A. Sometimes it would, but I generally kept them filled.

Q. Where were these delivery cans filled?—A. In the warehouse.

Q. And where did your customers live that you supplied with oil?—A. All over Norfolk. Berkeley, I think, was a part of Norfolk; but it was in Norfolk and all around Norfolk.

Q. And all in the State of Virginia?—A. Every gallon of it; yes, sir.

8972 Q. How did you secure this business?—A. Why, I solicited myself from door to door; I advertised in the local papers, and I had solicitors employed all of the time that I was down there. I just kept solicitors all the time, going from door to door, and soliciting orders. When any of the trade would get away from me I would go and call on them myself, or have the solicitors to go and call on them and see what the trouble was, if there was any trouble. Very often we would find the house closed. The people would be out of town; but we just paid close attention to the business in that way—just close solicitation.

Q. Do you remember the exact time when you were at Norfolk?—A. I went in there on the 6th of January, 1903, and left there the latter part of December, 1904—no, of the same year, 1903. I was there not quite twelve months.

Q. Then where did you go?—A. I went to Richmond, as agent for the Dixie Oil Works.

Q. Was there a plant there when you got there?—A. Oh, yes, sir.

Q. The Dixie was in business at Richmond?—A. Yes, indeed, sir.

Q. What did that plant consist of?—A. It had three big storage tanks, a stable, a warehouse, horse and wagons—a general equipment.

Q. What kind of oil or product did you carry at Richmond?—A. We carried refined oil, kerosene, lubricating oils, and axle grease.

Q. Was any part of that business a barrel business?—
8973 A. A little of it; yes, sir.

Q. Was any part in Richmond proper a barrel business?—A. In Richmond proper; no, sir; that was all done by tank-wagon service. We would sometimes supply substations; for instance, Durham, North Carolina, I used very often to ship a carload of oil there. That stuff was barreled from our tanks in Richmond and shipped to Durham.

Q. What were your duties there at Richmond as local agent of the Dixie?—A. Just to look after the interests of the Dixie Oil Works and build up their trade as much as possible; to see that no trouble occurred between the drivers and the trade.

Q. Did you have charge of the sales and collections?—A. Had charge of the sales, yes. The barreled shipments that we made (very few they were) were on orders from Baltimore; but all of the tank-wagon business I did look after, collect for, and sell. The drivers would make their returns into the office.

Q. Do you know how long the Dixie had been doing business in Richmond before you came there?—A. No, sir. They were there when I went there; had a very good business.

Q. You stayed there how long?—A. I stayed there until pretty close to September.

Q. Then what did you do?—A. Then I was assigned to road work again. That was my principal duty for the Dixie in Maryland and Virginia; practically the same territory that I had covered when I first went with them.

Q. That was mostly in barrels?—A. That was all in barrels; yes, sir.

8974 Q. Mr. Fehsenfeld, who is president of the Red "C" Oil Company, was doing business in that territory, was he not?—A. Yes, sir.

Q. In which you traveled?—A. Yes, sir.

Q. In the name of the Red "C" Oil Company?—A. Do you mean covering my entire time?

Q. No; covering the time when you were selling on the road.—A. Yes, sir; in the name of the Red "C" Oil Company.

Q. He testifies in this case that the Dixie Oil Works sold regardless of price, for the purpose of getting the business away from the Red "C" Oil Company. What can you say with respect to that, so far as your territory was concerned and so far as your trade was concerned?—A. It is absolutely a false statement. I never cut a price in my life. He and his salesmen tried to advertise that fact very thoroughly to the trade. There is where all the dissension and foolish questions came about, by their advertising our business falsely. They were good mud slingers.

Q. Do you know of a single instance where the Dixie Oil Works initiated any price cut?—A. No, sir; I do not.

Q. In what part of your territory did you meet the Red "C" competition?—A. Why, I found some little of it everywhere I traveled.

Q. That is in Maryland and Virginia?—A. In Maryland and Virginia; yes, sir.

Q. What other companies were doing business in that territory?—

8975 A. The Southern Oil & Supply Company, of Baltimore, Maryland, and the Standard Oil Company. There were several little New York companies, whose barrels I would see in my district every now and then, and I can't remember the names of those. They were not very frequent; and there was the Red "C" Oil Company, which was doing, as I said before, a little business all over.

Q. Was there a prevailing market price?—A. Oh, yes.

Q. Throughout your territory?—A. Yes, sir.

Q. And how did you get that?—A. Get the market price?

Q. Yes.—A. I was posted from the office as to what the prevailing price was, from Baltimore.

Q. The Standard was selling throughout that territory?—A. Yes, sir.

Q. Do you know of any cases where the Red "C" Oil Company cut the Standard's prices in order to get away Standard trade?—A. Yes; I know of some specific cases.

Q. Let us have them. Whereabouts were they. Do you know of the case in the Silver Spring district, in Montgomery County, Maryland?—A. Yes, sir.

Q. Mr. Cissell?—A. Mr. G. O. B. Cissell, at a place called Wheaton, Montgomery County, Maryland, was dealing with the Red "C" Oil Company, and in the course of my solicitation I tried to get his business, as I did every other business. I offered him our Water

White oil at the price that I was offering it to everybody, and he assured me that he was very well satisfied with his present dealings; and after repeated calls on Mr. Cissell he became a little more talkative, and he assured me that the grade of oil that he was getting was just as good as my Water White oil. "Why," I said, "you
8976 don't mean to tell me that those people"——

Q. Where was he getting it from?—A. Getting it from the Red "C" Oil Company, and getting it under the brand of Sunbeam, which is a Prime White oil, and which was a cent a gallon less than the Water White oil. I knew, or thought I knew, the character of oil that he was getting, and I was trying to sell him a high grade of oil at a higher price. He said, "Why, my oil is as good as yours." I said, "Why, I know that a Prime White oil is not as good as a Water White oil in any case, I don't care what company you may be getting it from." I said, "I was trying to sell you a high-grade oil."

Mr. MORRISON. I object to these conversations as purely hearsay.

Q. What was the result of it? What did you discover as to——A. He told me to look at his oil.

Q. What did you discover as to what kinds of oil Mr. Cissell was selling?—A. He took me over to his tank, and I had a little——

Mr. MORRISON. Now, he has not asked you that question.

WITNESS. Well, that is the answer to it, sir. I am trying to develop——

Q. What kind of oil was he selling?—A. He was selling a Water White oil, and he was getting it in a Prime White barrel, and he told me he was getting it at a Prime White price; and he also said that Mr. Metzel had told him that he would ship him that kind of oil.

Mr. MORRISON. Now, wait a moment, please. I object to these conversations as hearsay.

8977 Q. He was selling the Sunbeam oil, was he?—A. Ostensibly he was, sir; but he was not, as a matter of fact. It was a Water White oil that he was buying and selling, but he was getting it in a Sunbeam barrel—in a Prime White barrel.

Q. I see. So that, as a matter of fact, the oil that he was getting was a Water White oil?—A. At a Prime White price, and it was a concealed cut of a cent a gallon.

Q. And at the Prime White price, which was a cent under the Water White price?—A. Yes, sir; you are right there.

Q. And which, as I understand you, was 1 cent a gallon under the market price for Water White oil?—A. Yes, sir; and he further made a concession to Mr. Cissell by offering him and giving him, according to Mr. Cissell's statement to me, 10 cents a barrel from the Red "C" Oil Company for hauling his own oil from Silver Spring to his own warehouse or to his store. The oil was sold f. o. b. Silver Spring in that district, and there was a market price there at Silver Spring, and any oil that was transferred away from Silver Spring had the freight rate added to it.

Q. Who was Mr. Metzel?—A. Mr. Metzel was representing the Red "C" Oil Company.

Q. So that, as I understand you, they not only got a cut of 1 cent a gallon on the price of the oil, but a cut of 10 cents a barrel?—A. Yes, sir.

Q. On all the oil sold in barrels?—A. Yes, sir; and that was nearly equal to a quarter of a cent a gallon, so it really made them a
8978 cent and a quarter. I could not get his business on any such price as that. Then, I know of another case in Gloucester County, in the Tidewater of Virginia, of Mr. Thomas Morley (I think that was his name), where exactly the reverse of that thing was done. I called on him on one of my trips through the Tidewater of Virginia and talked oil to him. He said, "Why, what is your price on oil?" and I remember very distinctly at that time, because it was just after I had started on the road, that the price f. o. b. Baltimore was 9¾ cents on Water White oil in barrels. You could then sell 5 barrels of oil for a quarter of a cent less. That was a mode of marketing oil in quantities and inducing the merchant to possibly order a little more than he would use immediately. When this man Morley asked me the price of my oil, I told him 9¾ cents, but if he could use five barrels—the season was then coming on when I thought he could—I could give it to him at 9½ cents. He said, "Why, I paid 9¾ for the last oil that I got. I got it from the Red 'C' Oil Company." Up to that time I did not know where he was getting his oil. He voluntarily told me that. I said, "If you can handle 5 barrels, I can sell it to you at 9½ cents, just like anybody else." And then I went on to expatiate about the quality of the oil that I was selling.

Mr. MORRISON. Never mind the expatiation.

WITNESS. What would you like me to say, sir?

Mr. MORRISON. I would like you to answer the questions.

WITNESS. I am trying to do it, sir.

Mr. ROSENTHAL. Go right ahead.

8979 Mr. MORRISON. And not lecture so much about it.

Q. You expatiated upon the quality of your oil, and then what?—A. He went on and I saw a very much smoked-up lamp chimney. I said, "That is not the oil that you get, is it?" It was a glass lamp, and a clear one, and it had a very yellowish color, which is sometimes caused by a dirty lamp. He said, "Yes; that is the oil." I said, "Well, Mr. Morley"—I know the man's name was Thomas Morley, of Pinetta, Gloucester County, Virginia—I said, "Will you let me look at that oil, let me draw some out of your barrel?" He said, "Why, go ahead, and help yourself." At that time I was carrying a sample of our Water White oil and our Prime White oil and an empty bottle, exactly like the bottles I carried my oil in; and I went to his barrel—he did not have a tank, he had a barrel with a faucet—and I filled the bottle and took it to him and held it up. I said, "Mr. Morley, if you bought that for a Water White oil, you did not get it." I said, "It is absolutely nothing but a Prime White oil." I said, "Here is my Prime White oil, and if you can handle that class of oil, I don't want to talk you into paying me more than you can really get oil for."

Q. So what they had done there was to sell him a Prime White oil and charge him for Water White oil?—A. Yes, sir; and told him it was Water White. It was branded "Columbia Headlight Water White Oil."

Q. It was so branded on the barrel?—A. Yes, sir.

8980 Q. Did you ever have any experience with the gauging of Red "C" Oil Company's barrels?—A. Yes, sir; I did.

Q. For a man by the name of Wash Hicks?—A. Yes; I have known him all my life.

Q. At Rockville, Maryland?—A. Yes, sir.

Q. Tell us about that experience.—A. I went to call on Mr. Hicks after a day's drive in which I had been gauging barrels, and I had met so many barrels that had a false gauge marked on them——

Mr. MORRISON. You have not been asked anything about that.

WITNESS. I am trying to tell you what I know about Mr. Hicks.

Q. Yes; go right ahead.

Mr. MORRISON. I object to that as incompetent.

Q. You had been gauging barrels all day?—A. Practically every customer I called on—any kind of oil barrels I gauged.

Q. Of what company?—A. Of the Red "C" Oil Company, of the Standard Oil Company, and I was oftentimes asked to gauge my own barrels, which I was more than glad to do.

Q. What did you discover from your gauging of the Red "C" Oil barrels?—A. I discovered that pretty nearly all of them were overgauged.

Q. What do you mean by that?—A. Why, the number of gallons that they had marked on the end of the barrel could not be gotten in the barrel if you filled it up to the bunghole, and I told Mr. Hicks about that. He said: "Lemuel"——

8981 Q. Don't tell us about the conversation.—A. I asked Mr. Hicks if he would gauge his own barrels. I took a Tagliabue gauge rod—I believe that is a standard rule that is used for such things—showed him how to use it, and asked him to gauge his own barrels, and I told him I did not want him to let me see the end of the barrel that was gauged.

Mr. MORRISON. I object to the conversation.

Q. Did he gauge his own barrels?—A. He did gauge his own barrels.

Q. What did he discover?—A. He then got me to gauge them, and his gauging and my gauging were exactly the same. We found one barrel that was overgauged 2½ gallons; the other one was overgauged, but I don't remember how much that was. But one of them was correct. That convinced Mr. Hicks that their gauge rod was all right.

Q. What company puts the gauge mark on the barrel?—A. The company that sells the oil.

Q. Do you know of any other case besides the Hicks case and these you have spoken of?—A. Mr. J. B. Benson, of Grifton.

Q. Grifton, Maryland?—A. Yes, sir.

Q. Did you do any gauging of Red "C" Oil Company's barrels there?—A. Yes, sir.

Q. What was the result?—A. I don't remember just how many barrels there were, but every one of them were overgauged. I did that in the presence of Mr. Benson's clerk. Mr. Benson was not there at that time. And——

Mr. MORRISON. Now, you have answered the only question
8982 that has been asked of you.

WITNESS. I am glad that I did, sir.

Q. Well, "and" what?—A. On my return there I met Mr. Benson.

Q. And did you direct his attention to it?—A. I drew his clerk's attention to it. On my next trip through there I said, "Mr. Benson"—I drew Mr. Benson's attention to it. I will try to keep myself in, sir.

Q. All right, sir.—A. Mr. Benson said he was very much surprised.

Mr. MORRISON. That is objected to.

Q. Did you succeed in getting Mr. Benson's business?—A. He gave me an order for two barrels of oil, and he never gave me another order after that. He asked me that day——

Mr. MORRISON. Now, wait a minute. I object to that as not responsive to any question.

Q. Do you remember of any other instance of overgauging?—A. Yes, sir; after I went with the Standard Oil Company, in Yorkville, South Carolina.

Q. Whose barrels were overgauged there at Yorkville?—A. Red "C" oil barrels. There were six of them.

Q. Six of them?—A. Six of them, the only six that I could find.

Q. Where were they?—A. There were two barrels with the firm of Grist & Sandifer, at Yorkville; there were two barrels at the Yorkville Banking & Mercantile Company; there were two barrels at the place of W. C. Lattimer. Those were the only
8983 six barrels that I could find, except those that were in the yard of the agents of the Red "C" Oil Company. Carroll Bros. were the agents.

Q. Were the six barrels that you gauged overgauged?—A. Yes, sir; they were overgauged from one to two and a half gallons. I did that in the presence of the merchant.

Mr. MORRISON. Wait a minute. You are not asked that.

WITNESS. All right, sir.

Q. In whose presence did you do that?—A. In the presence of the merchants where I got the barrels from. I marked the barrels so that they would know them again if they saw them.

Q. Who were Carroll Bros., of Yorkville, South Carolina?—A. They were the commission agents of the Red "C" Oil Company, of Baltimore, Maryland.

Q. Do you know how the Red "C" shipped its oil to Carroll Bros.?—A. Shipped it there in carload lots in barrels.

Q. Under what brand did the Red "C" sell its oil; do you remember?—A. In that particular case, sir, they were shipping in under the brand of Columbia Headlight Water White oil.

Q. What was the Columbia Headlight oil supposed to be?—A. It was supposed to be a Water White, and it was branded Water White. That was a part of the name, I suppose. Columbia Headlight Water White oil was on the head of every barrel.

Q. As a matter of fact, what kind of oil was it?—A. When I made that first trip there it was a Water White oil. And they had
8984 gone in there on a cut of a half a cent a gallon.

Q. Who had?—A. The Red "C" Oil Company—over the tank-wagon price of the Standard Oil Company.

Q. Under the price you mean?—A. Yes, sir. Half a cent under the price of the Standard Oil Company's tank-wagon service. And on my second trip there they were shipping oil in the same way and in the same class of barrels, under the same brand, but it was a prime white oil.

Q. That is, they were shipping oil worth a cent a gallon less?—A. Yes, sir.

Q. On the same price?—A. Yes, sir; under the same brand exactly, telling the trade that their oil was——

Mr. MORRISON. Wait a moment.

Q. Was what?—A. Was just as good as mine. Can I finish, sir?

Q. Go right ahead.

Mr. MORRISON. That is objected to as being clearly hearsay and incompetent testimony.

WITNESS. I saw that oil, sir, and tested it myself.

Mr. MORRISON. We are not talking about that now.

WITNESS. I beg your pardon, sir.

Q. What representations were made to the trade?—A. That their oil, both Water White and Prime White, was as good as the oil that we were marketing.

Q. Do you know a man by the name of W. C. Lattimer?—A. Yes, sir.

Q. Where is his place of business?—A. Yorkville, South Carolina.

8985 Q. Did you gauge any barrels in his place?—A. Gauged two of them.

Q. From whom did the barrels come?—A. From the Red "C" Oil Company, Baltimore.

Q. With what result?—A. Both of them were overgauged; I can't remember just the exact number of gallons, but I know in the six barrels I gauged, as I heretofore testified, in every case or in the entire case of those six barrels the difference was from one to two and a half gallons.

Mr. MORRISON. What are you talking about now—these two barrels or six barrels?

WITNESS. The Red "C" Oil Company, where they overgauged the barrels, sir.

Q. The Yorkville Grocery Company, do you remember that?—A. Yes, sir.

Q. What about that so far as overgauging was concerned?—A. My mind isn't perfectly clear on that, sir, and while I know that it was wrong, I don't know enough about it to be specific, and I will not say anything about that, sir.

Q. Did the Standard finally put in a Prime White oil there against their Prime White oil?—A. Yes, sir. We did not cut the price of—well, yes, sir. We put in a Prime White oil so as to compete with their Prime White oil. We really reduced——

Mr. MORRISON. Now, you have answered the question.

Q. Go right ahead. "We really"—did what?—A. We reduced—it brought the price of our Prime White half a cent below the price of the Red "C" Oil Company. As a matter of fact, they were
8986 half a cent above the market on their second shipment, but they represented that they were cutting the price, told the trade that that was the reason they should have the business, because they had instituted the cut there, and they were going to make us sell cheap oil; that we had been robbing them, and they had come in and reduced the price; they were giving them high-class oil, but when the Standard put in a Prime White oil to compete with their Prime White oil——

Mr. MORRISON. You heard all of this, did you—heard them make that statement?

Mr. ROSENTHAL. Go right ahead, Mr. Wilmer.

Mr. MORRISON. Or are you reciting some episode now?

WITNESS. No, indeed, sir.

Mr. MORRISON. Who told you about that?

WITNESS. The men I did business with—every merchant in Yorkville. I didn't have a single customer when I went there. They were the people the Red "C" Oil Company had talked to.

Mr. MORRISON. Are you giving now statements that were made to you by people in that locality?

WITNESS. By the merchants that the Red "C" Oil Company was doing business with.

Mr. MORRISON. That is objected to as hearsay and incompetent.

Mr. ROSENTHAL. Go right ahead.

WITNESS. I was answering your question. Where did you have me, sir?

Mr. ROSENTHAL. Read his last answer, please, as far as
8987 he got.

WITNESS. I can talk to one better than to two.

Mr. ROSENTHAL. He happens to know that.

WITNESS. Well, he got one on me.

Mr. ROSENTHAL. Therefore, he is interrupting you, don't you see?

WITNESS. Yes, sir.

The answer of the witness was read, as follows:

"We reduce—it brought the price of our Prime White half a cent below the price of the Red "C" Oil Company. As a matter of fact,

they were half a cent above the market on their second shipment, but they represented that they were cutting the price, told the trade that that was the reason they should have the business, because they had instituted the cut there, and they were going to make us sell cheap oil; that we had been robbing them, and they had come in and reduced the price; they were giving them high-class oil, but when the Standard put in a Prime White oil to compete with their Prime White oil "——

WITNESS. That really brought our Prime White oil down to the honest market price, which was a half a cent a gallon below that of the Red "C." They met that price; they reduced their oil.

Q. Then where did the price go?—A. After they met that price they would not meet any more. There was a general decline of a cent a gallon after that. But that gauging of the barrels did not
8988 interest them very much; they were not very much interested in the market.

Mr. MORRISON. You are not asked about gauging barrels now.

Q. Are there any other cases of price cutting or trade trickery that you can tell us about, and that were practiced by the Red "C" Oil Company in your territory?—A. That thing was done very nearly everywhere I went. I told you about those cases that I know absolutely about. But I was always looking for something of the kind when I came in contact with that trade.

Q. And you found it?—A. Invariably I found it.

Q. Do you know or did you know a man by the name of C. H. Mahle?—A. Yes, sir.

Q. Who is he?—A. He was manager of the Richmond Oil Works when I first met him, or the Richmond Oil Company, I believe it was, in Richmond, Virginia.

Q. Is he connected with the Red "C" Oil Company?—A. They said they were not; they said they had absolutely nothing to do with the Red "C" Oil Company.

Mr. MORRISON. Wait a moment. I move to strike that out.

WITNESS. But I saw Mr. William H. Fehsenfeld at that plant time over and again; very often he would get over there at dark, when it was just about dark. That was at Richmond.

Q. Fehsenfeld was the president of the Red "C" Oil Company?—A. The same man; yes, sir.

Q. Did Mr. Mahle ever openly work for the Red "C" Oil Company?—A. I never knew of his openly working for anybody but the Standard Oil Company and the Richmond Oil Company. He
8989 claimed that he was absolutely independent; that he was a financier, and that he had come down there to give the people of Richmond cheap oil; that they had been robbed, and that he was going to sell oil at 2 cents a gallon if the Standard would do it.

Mr. MORRISON. You heard him say this, I suppose?

WITNESS. Mr. Mahle told me time over and again that he would make me sweat blood to keep pace with him.

Q. That is when he was managing the Richmond Oil Company?—A. The Richmond Oil Company.

Q. And you were in the employ of the Standard?—A. No, sir; I was in the employ then of the Dixie Oil Works.

Q. The Dixie?—A. Yes, sir.

Mr. MORRISON. The same thing.

WITNESS. Do you think so, sir?

Q. Mr. Mahle testified, among other things, as a witness for the Government in this case, that the Dixie Oil Works, in their effort to get business away from the Richmond, gave special concessions, or concessions exceeding those that the competitor made, to parties that were buying in carload lots. What have you to say about that?—A. I heard that claimed, that he did, sir.

Q. That the Dixie did it in his territory?—A. Didn't do any such thing.

Q. Well, that answers it. And that the Dixie tried to take away the agents which the Richmond had secured; and that when it could not do that, it attempted to have obnoxious fire ordinances
8990 passed.—A. Didn't know that the Richmond ever had an agent outside of Mr. Mahle himself, and I don't know anything about fire ordinances there or any other place.

Q. In your competition with Mahle, did you succeed in getting the business away from him or he from you?—A. Why, he didn't have any business when I went there. I got there ahead of Mr. Mahle. So he certainly took my trade away from me; he took it away from the Standard Oil Company, and he took it wherever he could get it, and so did I, and so did the Standard Oil Company.

Q. How did he get the business away from you?—A. He went around telling everybody that I was connected with the Standard Oil Company, that the Dixie was a bogus concern, and that it was just a sharp practice of the trust, and I never heard——

Q. Did he get it away from you by reducing prices?—A. Yes, sir; he did.

Q. To what extent did he cut prices?—A. My recollection is that he cut the price a half a cent a gallon just as long as he went in there; in fact, I know he did, for the Richmond Oil Company was selling oil for a half a cent a gallon below.

Q. What other methods besides price cutting did he use than the methods you have just described in getting business away from you? Any others that you remember?—A. Just by making misstatements; working on the sympathy of the people; trying to get sympathy for himself and his company. He is the one that demoralized the market in Richmond.

8991 Mr. MORRISON. Now you answer the question.

Mr. ROSENTHAL. That answers the question.

WITNESS. That is certainly what he did do, sir, to get business. He demoralized the market. He brought the price of oil down, sir.

Q. To what extent?—A. I don't remember just the price that was in vogue when I went to Richmond, but I know that it did go down to 7½ cents a gallon. That was along in——

Q. You were in the field first, as I understand you?—A. Yes, sir; in Richmond.

Q. And then the Richmond Oil Company?—A. And then the Richmond Oil Company came in there.

Q. And that was a secret company, in your opinion, owned by the Red "C" Oil Company?—A. It certainly was, according to my opinion, if that goes for anything.

Q. That goes pretty far in this case, you know.—A. Well, yes, sir. Then I thought it was.

Q. And who was it that initiated price cuts?—A. The Richmond Oil Company did it, sir.

Q. Always?—A. In Richmond; yes, sir.

Q. Do you know of any threat being made by Mahle to sell oil as cheap as 2 cents a gallon in Richmond?—A. Yes, sir; but that is only hearsay. He only told me that he was going to make me sweat blood to keep pace with him in selling oil, and he had already cut his price.

Mr. MORRISON. Now, you are not asked anything about that, and you have told about sweating blood two or three times.

8992 WITNESS. Only once, I believe; this is the second allusion to it.

Mr. MORRISON. That makes twice, then; we will take it for granted hereafter.

WITNESS. All right, sir.

Q. Was the Southern Oil Company ever in business in Richmond while Mahle was there running the Richmond Oil Company?—A. No, sir.

Q. Did you ever give rebates in Richmond?—A. No, sir.

Q. Did you ever give away any oil in order to get trade?—A. No, sir; I didn't.

Q. In five-gallon quantities, or anything like that?—No, sir; I didn't.

Q. Do you know of the Southern doing anything of that kind?—A. No, sir; I do not.

Q. Did your wife ever follow Mahle's tank wagon?—A. No; she did not.

Q. For the purpose of ascertaining who his customer was?—A. No, sir; she did not.

Q. He spoke of one instance, that of Mr. John O. Taylor. Had he been a customer of yours?—A. Yes, sir; he had.

Q. Did she know that?—A. Yes, sir; she did know it. Mr. John O. Taylor's place—can I tell this?

Q. Yes.—A. My wife was brought in this thing by that contemptible puppy. I would just like to make an explanation to you gentlemen in connection with that.

Q. Go right ahead.

Mr. MORRISON. That is objected to as incompetent and
8993 immaterial.

WITNESS. My wife was on her way from our home in Richmond to my office, just across from Richmond, in Manchester——

Mr. MORRISON. Now, did you see this? Do you know this of your own knowledge?

WITNESS. Yes, I know it.

Mr. ROSENTHAL. Go right ahead.

Mr. MORRISON. You saw it, did you?

WITNESS. I saw my wife when I was up there in the office. No, sir.

Q. Go right ahead with the answer.

Mr. MORRISON. That is objected to as hearsay.

Q. Don't get into any controversy with counsel on the other side.

WITNESS. I beg your pardon, sir. I didn't really mean to.

Mr. MORRISON. I am simply making my objections. I wanted to get at the fact as to whether this was hearsay or not.

WITNESS. My wife told me she was on her way over to my office, and while waiting at the corner of 14th and Main——

Mr. MORRISON. Wait a moment. I object to that, because it now appears clearly that it is hearsay, and that he is simply relating what his wife told him.

Q. Go right ahead, sir.—A. And that at the corner of 14th and Main she saw the red oil wagon—she was waiting for a car there to take her over to my plant, or to the Dixie's plant, and that she saw Mr.—or "the red wagon" is the way she spoke of it, making a delivery to Mr. John O. Taylor, and asked me if I had lost Mr. Taylor's trade. I said, no, that I had not. I went to Mr. Taylor to see why——

8994 Q. Was that all there was to the episode of your wife?—A. Absolutely. That is the only time that my wife ever mentioned anything about seeing any deliveries or anything else. She knew that Mr. Taylor—in fact, I got some little stuff from Mr. Taylor. She knew that he was a customer of mine and really expressed surprise that he had gone back on me, as so many other of my customers did.

Q. And was that the only time that your wife ever made any report of any kind in connection with any business transaction?—A. Absolutely, sir.

Q. And it came about in that way?—A. Yes, sir. I am very sorry that she ever said anything about it.

Q. Did you have anybody following Mahle's wagons in Richmond?—A. No, sir; I did not.

Q. Mahle also testified that he saw you handling certain yellow sheets, containing lists of customers' supplies, the amounts that customers bought, and looking up the customers by means of those yellow sheets, along the streets where the customers lived. Did you ever do anything of that kind?—A. I certainly don't know what he is talking about, sir.

Q. Did you ever have a yellow sheet containing any information of any kind in connection with your business matters?—A. I don't know whether it was yellow or white, but I would make notations from time to time in my office on paper and might possibly refer to it.

Q. Did you ever do anything of the kind, as testified to by Mahle, along the lines that I have just read to you?—A. Not to my
8995 knowledge, sir. I might make up a list or notations of people that I wanted to call on, in my office, and possibly have to refer to them. Where I had all Richmond to look after I couldn't remember every address to save my life. If that is what Mr. Mahle is getting at—I don't know what he is getting at. I don't know whether the paper was yellow or not.

Q. Do you know a man by the name of W. J. Metzel?—A. I was never introduced to him in my life. I know him when I see him.

Q. Who was he?—A. Representing the Red "C" Oil Company.

Q. A salesman?—A. He was a salesman for them. He claimed to know me, but he didn't.

Q. He testified, at Washington, in this case, that he had frequently come in contact with you, and that he had discussed prices with you, and that you and he talked about these independent companies cutting prices, and that that was the only way the Dixie Oil Company and companies like that could sell their oil. Did you ever have any talk with him at all?—A. I never said one word in my life to him. I never spoke to him.

Q. He also testified that he had seen a bill of the Dixie Oil Company down in your territory, where you were handling the Dixie, showing oil sold at 6 cents per gallon to the trade, while the general prevailing price at that time was 4 or 5 cents a gallon more. Did anything of that kind ever occur?—A. I never sold oil at 6 cents a gallon in my life.

Q. In the territory that Metzel was operating for the Red "C" Oil Company, did the Dixie Oil Works ever cut under the
8996 Red "C" price?—A. I don't know that they ever did. I don't think that they were governed at all by the Red "C" Oil Company's prices. They maintained the market price—I did—and I think everybody else did that was connected with it. My instructions were at all times to maintain the price, that a salesman could do that. Any one could give goods away.

Q. Did you compete with Metzel in Montgomery County, Maryland?—A. Yes, sir; with the Red "C" Oil Company.

Q. You, representing the Dixie, competed with Metzel, representing the Red "C" Oil Company in Montgomery County?—A. Yes, sir.

Q. Who got the business?—A. We got some of it.

Q. So much of it as you got, how did you get it?—A. I may be conceited, but I think I got it through salesmanship principally. On the other hand, we had Mr. S. D. Waters, who was not only well known and highly respected in Montgomery County, but was related to a good many people in business there, and he was our commission

agent in Silver Spring and had formerly been connected with the Red "C's" agency or with a Mr. Hewitt, who was the Red "C's" agent, and it was through Mr. Waters also—through his influence—that a great deal of trade went over to him.

Q. Did you get it by cutting prices?—A. Why, it was never necessary to do that, sir; and we positively did not—I did not.

Q. You handled the Dixie Oil Company trade in Montgomery County?—A. Part of the time I did, sir.

Q. Metzel testifies that the Dixie passed up the customers of the Standard and only paid attention to the getting of the
8997 customers of other companies. Is that true so far as you were concerned?—A. It is absolutely not true, sir.

Q. Did you call on all the trade?—A. Indeed I did, sir.

Q. And tried to get all the trade you could?—A. Tried my very best, and did get it. I can give you three instances where I got men with tank-wagon customers.

Q. Away from the Standard?—A. Got them away from the Standard.

Q. Let us have those cases.—A. There was a fellow by the name of Pool in Montgomery County, Maryland. He was one man. There was a tank-wagon station almost within a stone's throw of his house. There was another concern not very far from Norbeck, Harris Bros.

Q. And who else?—A. Are you just referring to Montgomery County?

Q. Yes, sir.—A. Another fellow was a Mr. Carson Ward, at Gaithersburg.

Q. In the tidewater, Virginia, when you were selling down there, did you call on the Standard Oil Company's customers?—A. Indeed I did.

Q. Did you sell them?—A. Indeed I did, sir.

Q. To what extent?—A. I made one trip down there of 26 working days, not counting Sundays, and I sold 793 barrels of oil, and I do not believe the Red "C" Oil Company could do that down there in a year. If I didn't get Standard trade, I don't know where I got it from. A lot of that was Dixie trade. It was all Dixie trade if I could get it.

Q. Did you come in contact with the National Oil Company at any time?—A. Only when I was with the Home Safety Oil
8998 Delivery in Norfolk. I didn't come up with any of their barrel trade at all.

Q. What were your instructions from your main office with respect to maintaining the market price, if you had any at all?—A. I was instructed to always maintain the price. I had absolutely no discretion in the matter, and I just simply obeyed instructions.

Q. You were in charge of the Home Safety Delivery at Norfolk, Virginia, were you?—A. Yes, sir.

Q. When did you begin there?—A. On the 6th of January, 1903, was the first day I ever went to Norfolk, and I assumed charge then.

Q. How long had the Home Safety been at Norfolk when you took charge?—A. I don't really know, sir.

Q. Who was your predecessor?—A. Mr. Bruce Robinson.

Q. How many wagons did the Home Safety Delivery have when you came there?—A. They had two wagons that were working regularly. As a matter of fact, they had another wagon which stood in the yard pretty nearly all of the time, but it was sometimes used for taking out oil to the other two wagons that were on the street. It was used as a relay wagon.

Q. You had two wagons?—A. Two wagons that were working. There were three wagons in all at the plant when I went there.

Q. Your competitor there was Mr. Finlayson's company, the National Oil Company, was it not?—A. Yes, sir. That was there, and every grocery store in Norfolk was a competitor, as far as that was concerned, because I sold to everybody, outside of merchants, that I could.

8999 Q. You sold directly to the consumers?—A. Yes, sir.

Q. Did you ever have one-half of the consuming trade there, or any such proportion as that?—A. I don't think I possibly could have had it. Norfolk, for its size, was the greatest oil-consuming place I ever saw.

Q. How many wagons did the National have out?—A. They had five when I went there—five retail wagons and several wholesale wagons. They would sell to anybody.

Q. I think you have told us about your method of doing business so far as delivering to the customer in the patent can was concerned, have you not, in Norfolk?—A. I think so, sir.

Q. You covered that fully. Do you know how your oil compared in quality, grade, with that of the National Oil Company at Norfolk?—A. The National Oil Company said that our oil was cheap oil. As a matter of fact, they were both Water White oils at that time. The National Oil Company sometimes would switch in on their wagons a lot of Prime White oil. We always sold Water White oil. That was one of the strongest things in getting our trade and keeping it, putting out a uniform grade of oil.

Q. How did you ascertain that the National from time to time switched in Prime White?—A. I would have one of my drivers come in and say, "I wish you would call on Mrs. So-and-so," or give me some address. "We couldn't sell oil there."

Q. Did you sample the oil?—A. That is the way I would do it, sample it. Go over there and possibly find there was some dissatisfaction about the oil she was getting. I would ask her for a

9000 sample of it and compare it with our oil, so far as color was concerned, and would find that it was a Prime White oil.

Q. How did your prices at Norfolk compare with the prices of the National?—A. They were about the same all the time.

Q. Was any price cutting done by you so as to get under the National price?—A. Not at all, sir.

Q. Did you have any signs on your wagons?—A. Yes, sir. We had a sign up there with the words "Home Safety Oil Delivery" on it, and gasoline at—whatever the price I was selling it, and kerosene at whatever price I was selling it. A little bit later on we put another sign on the wagon. We raised the price of oil and gasoline—didn't really raise the price, but we raised the price of the package one cent a gallon and said we will return you one cent on our cans when returned. Now, that was not cutting the price, because we raised our price a cent. The National Oil Company used that as a good talking point, and said: "If you don't believe it look at the price on his wagon." A great deal of the trade that I sold to was in that black belt; that is where our big portion was, and in the poorer sections of every town is where the Home Safety can sell more oil than in the fashionable parts of town. There is more oil used there. Lots and lots of those people didn't know how to read, but they did understand figures; and I am told that the National Oil drivers used that as capital, and said, "Look at the prices on the wagon, they have gone up a cent." As a matter of fact we had not raised the price of the oil, but we were charging one cent for the use of that can and giving the money back.

9001 Mr. MORRISON. Now, are you answering any question?

Mr. ROSENTHAL. Oh, yes; he gave a direct answer to a direct question.

WITNESS. Yes, sir.

Mr. MORRISON. That is objected to as not responsive to any question and as giving hearsay and incompetent testimony.

WITNESS. How would I ever know anything, sir?

Q. So, as a matter of fact, Mr. Wilmer, while you ostensibly raised the price one cent a gallon, that was for the purpose of enabling you to pay the customer one cent for each can returned?—A. That was the only thing in the world it was ever done for, sir; and that move lost us business until I got around, and I put on my solicitors and went myself and explained.

Mr. MORRISON. Wait a minute, Mr. Witness. That is objected to. He has already fully answered the question and is not answering any question now.

Q. Finish your answer, please.—A. We continued to lose business until I could get around and explain we were not charging them a cent a gallon more, but were giving them the same oil at the same price, and when they would return our can we would give them back their cent. And it was in Norfolk that the Home Safety Oil Delivery first ever tried that experiment, and it brought us back our cans. Then it was adopted elsewhere.

(A recess was here taken until 2 o'clock p. m.)

9002 Cross-examination by Mr. MORRISON:

Q. How old are you, Mr. Wilmer?—A. 34 years old, sir.

Q. When did you first commence in the oil business?—A. January 6, 1902.

Q. At what place?—A. At Baltimore.

Q. And with what company?—A. With the Dixie Oil Works.

Q. Where was the office of the Dixie Oil Works at that time?—A. It was in the Van Sant Building, on East Lexington street; I think the number was 210.

Q. Who owned the Dixie Oil Works?—A. I have no idea, sir.

Q. No idea whatever?—A. No, sir.

Q. Who was managing it?—A. Mr. Charles W. Bender was the manager.

Q. What did you do when you first commenced to work there?—A. For the Dixie Oil Works?

Q. Yes, sir.—A. As a refined-oil salesman.

Q. Traveling on the road?—A. Yes, sir.

Q. Selling to the dealers?—A. Yes, sir.

Q. Did you have anything to do with the collections?—A. Yes, sir; I would collect.

Q. When you collected, what did you do with the money?—A. Remitted to the office.

Q. To whom?—A. The Dixie Oil Works, 210.

Q. How?—A. By mail.

9003 Q. To whom did you direct your letters?—A. To the Dixie Oil Works, Baltimore, Maryland.

Q. Did you put the number on?—A. Sometimes I would put on the post-office box, and sometimes I would put on Van Sant Building, and sometimes 210 East Lexington street. Generally I put on 210 East Lexington street.

Q. Did you have printed envelopes that you used?—A. No, just used hotel stationery.

Q. Wrote from wherever you happened to be?—A. Wrote from wherever I happened to be.

Q. Did you remit by bank draft, or how?—A. Mostly by post-office order.

Q. From what persons did you collect?—A. Anybody I happened to meet.

Q. Persons to whom you sold, I suppose?—A. Yes, sir.

Q. Were you the only salesman covering that territory?—A. Yes, I was the only salesman working that territory at one time.

Q. Never had but one at one time?—A. That is all I ever knew of.

Q. Did you send in your remittances daily?—A. No, sir; sometimes I could not. The country was very rural in some places and oftentimes I could not get to a railroad point.

Q. Who paid the expenses?—A. What expenses?

Q. Whatever expenses were incurred.—A. The Dixie Oil Works paid my salary and traveling expenses.

Q. Were there any other expenses connected with that business aside from your salary?—A. No.

9004 Q. Were you selling in barrels?—A. Yes, sir.

Q. You simply shipped it to the dealer?—A. I took the order from the dealer and turned the order in to the Baltimore office.

Q. And then the order was filled?—A. Yes, sir.

Q. Who fixed the price at which you were to sell the oil?—A. That was always fixed in the Baltimore office.

Q. Fixed by whom?—A. By the Dixie Oil Works.

Q. Well, who was the Dixie Oil Works except Bender? Was anybody else connected with it that you knew of?—A. You mean any of the officials of the company?

Q. Yes.—A. I didn't know any of them personally; I knew Mr. Bender.

Q. Were you in his office frequently?—A. Why, I would go in possibly once a month and oftener.

Q. Whom did you see there?—A. I saw the office force.

Q. Who were they?—A. They changed frequently. There was Mr. Charles W. Bender, who was my superior officer, and the bookkeeper, and the stenographers, and the various clerks. I don't remember the names of those boys; I didn't have anything in common with them.

Q. The man in charge was Mr. Bender?—A. Yes, sir.

Q. He was the man who gave you your instructions, was he not?—A. Yes. I got letters signed "Dixie Oil Works." Very often they were signed "Dixie Oil Works" and "O." That was Mr. Osmond, I suppose—the bookkeeper. And other times I would get it "Dixie Oil Works, B," and sometimes I would get it "K."

9005 Q. When would you get your prices at which to sell—before you would go out to make your trip?—A. Not always. Sometimes they would telegraph me if there had been a change in the price and advise me what it was.

Q. They would advise you either to lower or raise the price?—A. Yes, sir.

Q. And you would immediately do that?—A. Upon notice I would always do it, sir.

Q. Now, you didn't know anything about the price of crude, did you?—A. Nothing in the world, sir.

Q. You kept no track of that?—A. No, sir.

Q. And did you keep track of your competitors' prices?—A. I did as far as I could.

Q. How did you manage to do that?—A. Everything that I ever heard in connection with the competitors' trade was only hearsay, sir. The trade would tell me.

Q. The trade would tell you?—A. Yes, sir.

Q. And you would immediately communicate that, would you not, to Mr. Bender?—A. Yes, sir; to the Dixie Oil Works. I didn't write to Mr. Bender; I wrote to the Dixie Oil Works.

Q. So that if you went into a town and found that the prices of the other salesmen in there were different than yours, you would notify Bender, would you not?—A. Why, yes; I would. If I found that I was off on the regular price I would telegraph to know if my prices were right.

Q. You kept him posted as to the prices of the competitors in your district so far as you were able to do so, didn't you?—A. Always, sir.

9006 Q. Did you have any report in your hands sent you by the Dixie Oil Works, or given to you before you started out, showing that competitors had shipped oil into your territory?—A. Oh, yes, sir.

Q. Where did you get those reports from?—A. From the office.

Q. Did you ever get them while you were on the road?—A. Only from observation every time——

Q. No, but did you get reports, written or printed or telegraphic, while you were on the road?—A. You mean were those reports sent to me? Let me understand you clearly.

Q. Yes.—A. Yes, sir.

Q. Was that a frequent occurrence?—A. Not a very frequent occurrence, sir.

Q. Did you have reports with you or did you obtain reports while you were on the road showing some competitor had sold some person in a particular town?—A. Yes, I gave that information whenever I could.

Q. No, but did you get that information from the office?—A. Yes. I thought that was the question you asked me just now, sir.

Q. And you would call on that customer, would you not?—A. When I happened to come up with him I would.

Q. Now, what other companies were selling oil in your same territory?—A. The Standard Oil Company; the Southern Oil & Supply Company for a while, but they finally went out of business.

Q. The Red "C"?—A. Yes, and there were others, too.

9007 Q. What others?—A. There were several little New York companies, and I will tell you who was another one—Leonard & Ellis. I had overlooked them. They would ship, I think, from Philadelphia.

Q. Do you think of any others?—A. Yes, sir; there was another one—the Crescent Oil Company.

Q. Will you tell me the territory you covered when you first started in as a salesman on the road?—A. Yes, sir. The first trip I ever made was below Alexandria, on the Southern Railway.

Q. I don't care about any particular trip, but what was your territory?—A. I will tell it to you straight.

Q. Go on.—A. I started in just below Alexandria and I had the territory adjacent to the Southern Railway, as far south as Rock Ridge, which is about 30 miles below Charlotteville. Then I had what is known as "the northern neck of Virginia," that is the common name for it, I can't class it by counties, but that extended from just about opposite the lower part of Virginia to the southeast part of Maryland, across the Potomac River, over to the Rappahannock, and between those two rivers down to about Westpoint. That was my territory, sir.

Q. You had pretty sharp competition in your territory, hadn't you?—A. Yes, sir. There were all of those companies I told you.

Q. They frequently told you, did they not, of being connected with the Standard Oil Company?—A. Yes, sir; indeed, sir.

Q. You heard of it everywhere, didn't you?—A. Yes.

Q. That was circulated pretty generally?—A. Yes.

Q. What did you say to that?—A. When people would ask
9008 me that question I would say, "If there is any connection I do not know it."

Q. Did you tell Mr. Bender or did you write him that you were being accused of being connected with the Standard?—A. No, indeed, sir; I didn't.

Q. Never told him that?—A. Mr. Bender on one occasion said, "How do you find the trade? How do you find the Dixie stands with the trade down there?" I said, "I find that they stand very well with them, the company is very popular." I had only gone on the road, you see, with him, and I said, "They are thought very highly of."

Q. You are not answering my question at all, sir.—A. I am trying to do it, sir.

Q. Do you mean to say that you never told Mr. Bender that you were constantly being accused on the road of being connected with the Standard Oil Company?—A. No; I did not say that I did not, sir. I didn't mean to.

Q. Did you tell him?—A. Yes; I told him.

Q. Did you ever write him?—A. No; I never wrote him in my life.

Q. What did he say to you when you told him?—A. He said, "What do you think about it?"

Q. What did you tell him?—A. I said, "If there is any connection I do not want to know it. I want to sell oil conscientiously, I am only going to do that, and," I said, "as far as that is concerned it doesn't really make any difference." I said, "The people that
9009 do accuse me of that I tell that I don't know anything about it, if such is the case, but I don't really find that it makes any difference at all. They simply want to know what my price is, and," I said, "I get off a quality argument, as I have been instructed to do, and I maintain the prices."

Q. Now, how many times did you tell Bender that?—A. I never told it to him but that one time.

Q. Never but once?—A. That I can recall.

Q. Did you never tell him but once of the fact that you were being constantly accused of being connected with the Standard?—A. Why, no, sir; I thought once was enough to Mr. Bender.

Q. Now, you haven't told me yet what Bender said to you when you told him this.

Mr. ROSENTHAL. I object to that because it assumes that Bender said something to him.

A. He didn't say anything.

Q. Stood mute, did he?—A. No.

Q. Well, what did he do?—A. Went on with the conversation. That wasn't any particular point in that conversation.

Q. No, no, but you told me how that you told Bender that you were being accused of operating in the interests of the Standard.—A. Didn't I tell you that I answered what I thought of it?

Q. Now, wait a moment. When you told Bender that, what did Bender say or do, if he said or did anything?—A. He said, "What do you think of it?"

Q. And then you went on and told him that. Now, is that all he ever said about it?—A. That is all he ever said to me about it.

Q. When you told him that, then he turned and put a ques-
9010 tion to you, did he, and said, "What do you think about it?"—A. Yes.

Q. And did you tell him whether you thought it was or was not connected with the Standard?—A. I told him that I didn't see where it made any difference, that I could sell the oil, anyhow.

Q. Yes; you have told us that.—A. I thought you asked me again.

Q. Did you answer his question when he put this question to you, "What do you think about it?" Did you answer that?—A. Just the answer I gave you is the one I gave him.

Q. You didn't tell him whether you thought it was a Standard concern or not, did you?—A. Why, no.

Q. Why didn't you?—A. I didn't think it was any of my business.

Q. But he asked you the question what you thought about it?—A. I know he did, but that was just in a conversation. That wasn't a thing just simply to draw me out as to what I thought. It was just simply a pleasant conversation. I knew Mr. Bender.

Q. It was a mere matter of pleasantry?—A. Yes; and I dare say he didn't have a chance to ask me a question because I was very much——

Q. Just wait a minute. As a matter of fact, what did you think about it when Bender put that question to you?

Mr. ROSENTHAL. If you thought anything at all.

Q. Yes. If your mind was a perfect blank, say so.—A. It was not, and never has been.

Q. Well, what did you think about it when Bender put that question to you?—A. I sort of wondered if it was.

9011 Q. What?—A. I sort of wonder if it was. I had heard it, you know.

Q. To what extent did your wondering go? Did it amount to an opinion that it was or that it was not?—A. Absolutely not, because all of that stuff came from the Red "C" and all of these other little companies, that were distributing circulars among the trade, villifying the trusts—not any particular trust, but trusts; the American Tobacco Company and the company that puts out the Uneeda Biscuit, and all trusts. It was just an antitrust talk. But they would specify Dixie Oil Works as a bogus concern.

Q. And that literature specifying the Dixie as a bogus concern was scattered broadcast throughout your whole territory, wasn't it?—A. Pretty generally, sir.

Q. And yet you hadn't any opinion as to whether or not you were operating for the Standard?—A. Just simply considered the source.

Q. No, no; had you an opinion about it? is the question now.—A. As to whether I really believed it or not?

Q. Yes. A. I did not think that there was any connection between the two. People would ask me, "Where do you get your oil from?" and this was my answer invariably: "We get our oil from just the same source that every other oil company in this country gets theirs." And I don't believe there is a drop of oil used in the East—and I don't know anything about the West, for I have never been there—that does not at some time during the course of its travel from the earth to the lamp pass through the hands of the Standard Oil
9012 Company, and I don't believe it to-day, sir, regardless of the independent companies.

Q. You were getting your oil from the Standard, were you?—A. No, sir; I don't know that at all, and I didn't say that I knew it. I thought that.

Q. Did you have an opinion upon that subject?—A. Didn't I just tell you I thought they were getting it there?

Q. What made you think so?

Mr. ROSENTHAL. He has just explained that, hasn't he?

A. I thought I had given the reason.

Q. Because you thought everybody got their oil from the Standard?—A. Just my opinion, that is all.

Q. You knew there were a whole lot of refineries that were not controlled by the Standard, didn't you?—A. Can you tell me one, sir?

Q. I am asking you.—A. Well, I didn't know it.

Q. Did you ever hear of the Red "C"?—A. Yes; and I heard they had a refinery in Hagerstown in the building where the Crawford bicycle was being built. One of their salesmen made that assertion.

Q. Now, just answer my question.—A. I am trying to, sir.

Q. That was one independent company that you knew of, wasn't it?—A. Independent?

Q. Yes, or didn't you think they were independent?—A. I thought they got their oil just exactly where we got ours, or where I thought we got ours. I think I explained that.

Q. You thought the Red "C" was buying their oil of the Standard, did you?—A. Of course I thought so. Where would they get it?

9013 Q. You thought that all the companies which were operating in your country were buying of the Standard, didn't you?—A. I certainly did. I thought that was generally known, too, among the trade. I think the trade all thought so. Time over and again we had told——

Q. You circulated that report, didn't you?—A. What?

Q. That the Red "C" was buying its oil of the Standard.—A. Why, no; indeed I didn't.

Q. Didn't you ever say that?—A. No, indeed I didn't. You asked me that question direct.

Q. And what would you say?—A. I would say, "Indeed I do not know."

Q. You don't know?—A. I don't know, but I suppose——

Q. Don't tell what you suppose.

Mr. ROSENTHAL. But supposed what?

WITNESS. That all these little companies got their oil from the same source.

Q. You call the Red "C" a little company, do you?—A. Most decidedly so, sir. I have seen big companies since then.

Q. Yes. The big company was the Standard, wasn't it?—A. Yes, the biggest that I know of.

Q. Now, notwithstanding the fact that you were constantly accused of being in the interests of the Standard, notwithstanding the fact that you had put the question to Bender and he had not answered——A. I didn't put any question to him, sir.

Q. Wait a moment now—still, you had no opinion as to
9014 whether this concern was connected with the Standard?—A. I never asked Mr. Bender any such question as you have just said that I did.

Q. Well, you told him what the trade accused you of, didn't you?—A. Oh, yes, sir; but I didn't ask him.

Q. And he didn't answer you?—A. Why, yes, he did. He asked me what I thought of it.

Q. He asked you what you thought of it?—A. Yes.

Q. And still you had no opinion as to whether it was a Standard concern or not?—A. Didn't I just tell you that I told everybody that I thought we got our oil from the Standard Oil?

Q. You have told me all about that.—A. That is what I told the trade.

Q. That is all the answer you have to give, is it?—A. Sir?

Q. That is all the answer you have to give, is it?—A. To you?

Q. Yes.—A. I will answer anything you ask me, sir.

Q. Now, when did it commence to dawn over you that this was a cat's-paw for the Standard Oil Company?—A. I never looked upon the Dixie——

Mr. ROSENTHAL. Wait a moment. I object to that. The witness has never said that it dawned upon him that it was a cat's-paw for the Standard.

Mr. MORRISON. I know he hasn't.

Mr. ROSENTHAL. Nor is there any proof.

Mr. MORRISON. The record is full of proof that the Standard owned it from the beginning.

Mr. ROSENTHAL. You and I won't argue that now. This
9015 witness hasn't said so.

Mr. MORRISON. I know he hasn't.

Mr. ROSENTHAL. We agree on that.

WITNESS. And I could not honestly say it either, and I wouldn't any other way.

The following question was read: Now, when did it commence to dawn over you that this was a cat's-paw for the Standard Oil Company?

WITNESS. I never considered the Dixie a cat's-paw for anything.

Q. How long were you with the Dixie as a traveling salesman?—A. From January 6, 1902, until January—I expect about the 5th—of 1903.

Q. You were there about a year, then?—A. Yes, sir. I will give you my whole record in the oil business if you want it.

Q. Oh, no; you just answer the questions.—A. Yes, sir.

Q. Where did you go from that position?—A. Then I went to Norfolk, Virginia.

Q. With what company were you there?—A. As manager of the Home Safety Oil Delivery at Norfolk.

Q. Who succeeded you as a traveling salesman for the Dixie?—A. I don't really know, sir.

Q. Whom did you succeed when you went with the Home Safety Company?—A. Mr. Bruce Robinson.

Q. You followed him?—A. Yes, sir.

Q. What were you doing for the Home Safety?—A. Working for them.

Q. What was your work?—A. I was manager.

9016 Q. Manager where—Norfolk?—A. At Norfolk; yes, sir.

Q. And what business was the Home Safety doing there?—A. Doing what is classed as a peddling business, selling to the consumer.

Q. Selling to the consumer?—A. Yes, sir; exclusively.

Q. Where did you get your oil?—A. Got it from the Standard Oil Company.

Q. Did they have a station there at Norfolk?—A. Yes, indeed, sir.

Q. How many wagons did you have there?—A. There were two wagons that were working, that had regular routes. I will explain this to you. There were really three wagons, you understand, but one was just really a relay wagon, or you might say, an extra wagon.

Q. Did you make the collections while you were there?—A. The drivers made the collections, sir; they sold for cash.

Q. Did they turn them over to you?—A. Yes, sir.

Q. What did you do with the money?—A. I deposited it. I don't know whether you would call it a deposit, either. I would take it down to the Commercial National Bank—I think that is the name of the bank; they were corresponding with the bank in Baltimore that the Dixie was doing business with—and I would just simply get a receipt for that money, and I would send that receipt with my daily report on to Baltimore, to the Dixie Oil Works.

Q. Who paid the expenses there?—A. I paid them.

Q. Out of what fund?—A. I had a petty cash fund, and whenever I would pay out bills up to a certain amount and I found

9017 that I was going to run short, I would send on the bills that I had paid (those receipted bills that I had paid) to the Dixie Oil Works in Baltimore, and they would reimburse me up to the amount of my petty cash.

Q. Then, when you were running the Home Safety you were under the Dixie Oil Works, were you?—A. Yes; I suppose you might say that I was.

Q. To whom did you direct your letters?—A. To the Dixie Oil Works.

Q. And all of your correspondence and communication was with the Dixie Oil Works?—A. Oh, yes, sir.

Q. Did you hold out the Home Safety as an independent company?—A. Why, no, indeed, sir. My place was just as wide open as this street here.

Q. Did you hold it out as an independent company?—A. No, indeed.

Q. [illegible] as a Standard Company?—A. I didn't hold it out as anything.

Q. What did you say about that when they asked you?—A. Just told them I was selling oil for the Home Safety Oil Delivery.

Mr. ROSENTHAL. What did you tell them, is the question?

WITNESS. I told them I was the manager there for the Home Safety Oil Delivery, and I would like very much indeed to serve them with oil; that I would only give them a high-class oil; and the question of being a trust or antitrust there did not come up.

9018 Q. Were you not accused while there of being connected with the Standard, in Norfolk?—A. I left that——

Q. Oh, no, answer my question. Were you not accused of that in the trade?—A. I will tell you if you will let me. Not in the trade; no, sir.

Q. Whom were you accused by?—A. Mr. Simpson, who was on the police board; I lived in his house. He said: "Wilmer, isn't that a Standard Oil concern?" I said: "I buy all my stuff from the Standard Oil Company. You can see the delivery wagon making me deliveries from day to day."

Q. Was that the only man that accused you of being connected with the Standard?—A. I don't know as he is the only one, but that was one specific case that I know of. It was not general.

Q. Didn't you hear of it almost daily?—A. No, indeed.

Q. You heard of it frequently, didn't you?—A. Well, how many times is frequently?

Q. Oh, I don't know. I will leave that to you.—A. Well, I leave it to you, sir.

Q. Did you or did you not hear it frequently?—A. I don't really know what you mean, sir.

Q. You don't know what that means?—A. I don't know your version of it, sir. I did not come in contact with that question much. I was doing business mostly with women. They don't bother themselves about those things.

Q. You were not selling on the street yourself, were you? You were not driving a wagon?—A. When it was necessary for me to drive a wagon I would do it; when it was necessary for me to do anything around that plant I would do it.

9019 Q. Didn't your drivers report to you that they were accused of being connected with the Standard, or that your company was?—A. Sometimes they would laughingly say, "Isn't this a Standard Oil company?"

Q. And what would you say?—A. "Well, what if it is? Won't you sell your oil?" I didn't try to keep it from anybody where I was buying my oil. I was only glad for them to know it was Standard oil, because it was all right.

Q. Did you know the Standard Oil Company was controlling your company at that time?—A. Absolutely I did not.

Q. You did not?—A. It didn't make a particle of difference, though, to me.

Q. Did you ever talk to Bender about it?—A. Not in the least, sir.

Q. What other companies were doing business in Norfolk at the same time you were?—A. Do you mean what companies or do you mean what people were doing a business competitive to me?

Q. Yes.—A. Every merchant in Norfolk. There were two or three individual peddlers. I don't remember the names of them. And the National Oil Company was doing quite an extensive business there in the peddling business also, and wholesaled.

Q. And who was running this National at that time?—A. I think it was a Mr. Finlayson.

Q. Finlayson?—A. I think that is his name.

Q. Is that the only company there aside from these peddlers?—A. You mean peddling business, don't you?

Q. Yes.—A. That is all I knew of.

9020 Q. How long were you in Norfolk with the Home Safety?—A. From the 6th of January, 1903, up until the latter part of December of the same year.

Q. Then where did you go?—A. Went to Richmond.

Q. With what company?—A. The Dixie Oil Works.

Q. Then you went back to work for the Dixie again?—A. Yes, indeed.

Q. And who succeeded you at Norfolk?—A. There was some clerk went down there.

Q. A clerk from where?—A. I think he came from Washington. I think he used to work in the Home Safety Oil Delivery office at Washington. He came down there until Mr. Artie Purse was sent there to succeed me.

Q. What kind of a business were you doing at Richmond for the Dixie—a retail business?—A. No, sir; doing exclusively a wholesale business.

Q. You were selling there to the dealers?—A. Yes, sir.

Q. You had some competition there?—A. Oh, yes, sir.

Q. How long were you in Richmond with the Dixie?—A. Up until, I think it was, the early part of September of the same year.

Q. About what time did you say you went in there?—A. It was the latter part of December, 1903, and up until pretty nearly the first of September, 1904.

Q. And where did you go then?—A. Stayed at Richmond. You mean after I left Richmond?

Q. After you left the Dixie.—A. I didn't leave the Dixie then. I went with the Standard Oil Company when I left the Dixie.

9021 Q. When did you leave the Dixie?—A. October 22, 1905.

Q. Did the Dixie move out of Richmond?—A. You mean when I was there?

Q. Yes.—A. No, sir.

Q. Well, I thought you said you remained in Richmond up to a certain time, and then you went somewhere else, did you, from Richmond?—A. You didn't ask me where I went when I went from Richmond.

Q. Where did you go?—A. I went on the road again for the Dixie, traveling in practically the same territory as when I first started.

Q. With headquarters at Baltimore?—A. Yes, sir.

Q. Who succeeded you at Richmond in the Dixie?—A. I think there was a fellow by the name of McAllister that went in there for a short while.

Q. Is the Dixie running yet?—A. I'll be dogged if I know.

Q. Is the Dixie in business yet?—A. I don't know whether they are or not.

Q. Don't you know that it went out of business in 1905—the latter part of 1905?—A. No, sir; I don't know it.

Q. You don't know anything about that?—A. They were in business when I left them and went with the Standard Oil Company, and I went away down in Florida and lost communication entirely with all of that business.

Q. You don't know whether it is doing business yet or not?—A. Indeed, I do not.

Q. Now, you spoke about gauging some barrels. Where was that that you gauged these barrels of the Red "C" Oil Company?—

9022 A. Yorkville, South Carolina, and in Montgomery County, Maryland. I did it all over Virginia. I did it everywhere that I saw an oil barrel—not only of the Red "C," but my own barrels.

Q. You gauged every barrel that you saw?—A. No, indeed, not every barrel. Why, I wouldn't have been doing anything but gauging barrels.

Q. What barrels did you gauge, then, or what caused you to gauge barrels or any particular barrels?—A. Every now and then in my argument with a merchant he might ask me the question, "How do you fill these barrels?"

Q. You carried a gauge right with you, did you?—A. Yes, sir.

Q. Kept it with you all the while?—A. No, sir; some trips I would leave it at home, and other trips I would have it with me. I would forget it sometimes.

Q. Did these merchants ask you to gauge their barrels?—A. Very often they would. Sometimes I wouldn't have my grip with me and I would have my gauge rod. They would say, "What's that thing?"

Q. Where did you get this gauge?—A. Got it from the Dixie Oil Works.

Q. And you found out that some of the Red "C" Oil Company's barrels were overgauged, did you?—A. Yes, sir; I did.

Q. Did you see the invoices?—A. In some cases I most decidedly did.

Q. Now, tell us a case.—A. I might tell you of one that just enters my mind. W. C. Lattimer, of Yorkville, South Carolina. And he said he'd be darned if he would pay for it and he would make them take it off his price.

9023 Q. I ask you if you saw invoices and you say you saw one. Where?—A. Yorkville, South Carolina, the business place of W. C. Lattimer.

Q. With whom did you talk there?—A. I talked with Mr. Lattimer himself, and bought the barrels from him.

Q. And he showed you the invoice?—A. Yes, sir.

Q. Whose invoice was it?—A. An invoice of the Red "C" Oil Company. The Red "C" Oil & Manufacturing Company, I believe they called themselves.

Q. Did you see any other invoices?—A. Frequently.

Q. Give us another case.—A. I didn't attach enough of importance to it to charge my mind with it.

Q. Can you give us another case where you saw an invoice?—A. I suppose if I would look back over my records——

Q. I am not asking you that. I am asking you now to give us the name of another invoice that you saw.—A. Yes, I saw one of the Yorkville Banking & Mercantile Company.

Q. Whose invoice was that?—A. The Red "C" Oil invoice.

Q. Where?—A. Yorkville, South Carolina.

Q. Did you gauge barrels there?—A. Indeed I did, two of them, and bought them.

Q. Where did you say this was?—A. Yorkville, South Carolina.

Q. When was that? Just fix the date as nearly as you can?—A. 1907.

Q. Who showed you that invoice?—A. I think it was a Mr. Neil, one of the firm.

Q. What is the name of the firm?—A. Yorkville Banking &
9024 Mercantile Company.

Q. A corporation?—A. Indeed, I don't know. Big cotton buyers. They did a little banking business.

Q. Do you remember the date of the invoice?—A. No, sir, I do not.

Q. Do you remember the date that you gauged the barrels in either case?—A. Offhand I can't give you the dates.

Q. How do you know that that invoice covered the oil that came in the barrels that you measured?—A. Do you suppose I would gauge a barrel and not——

Q. No, answer my question.—A. Because it applied to the shipment of oil that came at the time that I gauged those barrels in Yorkville.

Q. How did you know that?—A. Because I looked at the date, and I know that it was, and the merchants told me that—but that is only hearsay. I saw the barrels and I know the dates. I was there in March.

Q. Was there any date on the barrels?—A. There is always a date on the barrels.

Q. Whereabouts is it?—A. On either one head or the other.

Q. How is it put there—chalked on with chalk?—A. No. Suppose it was July the 11th. That would be 11/7/07.

Q. That is always on the barrel?—A. Well, I can't say that it is always there, but it is generally.

Q. And was it in this particular case?—A. I know it was in that case. I can produce the barrels if you want them.

Q. Where are they?—A. I guess they are at Yorkville, South
9025 Carolina. I don't know, I haven't been——

Q. What makes you think they are there yet?—A. Because I put them in the warehouse myself and locked them up.

Q. For what purpose?—A. Because Mr. Carroll, the agent for the Red "C" Oil Company, came to me and asked me what I meant by buying those barrels. I said, "Mr. Carroll, only as evidence; in case the Red "C" Oil Company wants to recover any damage that I have done them here they can go to the Standard Oil Company and get it, because I am representing them. I have made this statement and I am not going to let those barrels stay loose for you or the Red "C" Oil Company to get them away from me.

Q. When was that?—A. That was in 1907.

Q. Give us the date.—A. I can't do it.

Q. Give us the month.—A. I don't remember what month it was. I went there about every six——

Q. Tell us as nearly as you can. That is, within a year.—A. I don't know whether it was in 1906. I covered that territory from 1906 to 1907. Yorkville was one of my points.

Q. You said it was 1907, didn't you?—A. Then, it was 1907, say between January the 1st and December the 31st. That will certainly cover it.

Q. How many barrels did you put into the warehouse at that time?—A. Put in what warehouse?

Q. The one you are talking about?—A. You mean the barrels that I bought?

Q. Yes.—A. Six of them.

Q. And whose barrels were they? Who owned them?—
9026 A. They were mine; I bought them.

Q. You bought them?—A. Yes, sir.

Q. Bought them of whom?—A. Bought them of Grist & Sandifer, W. C. Lattimer, and the Yorkville Banking & Mercantile Company, all of Yorkville, South Carolina. I bought two barrels from each one of them, and those were the only barrels I could find empty in the whole town.

Q. The barrels you gauged were always empty barrels, were they?—A. Oh, yes, sir.

Q. You didn't gauge any of them while they had the oil in them?—A. No, sir; but I have poured the oil out of a number to gauge them.

Q. Are those six barrels all the barrels you bought up and stored at any time?—A. They were the only ones I could get my hands on.

Q. Answer my question yes or no.—A. Yes; they were the only ones.

Q. And those you got in what town?—A. Yorkville, South Carolina.

Q. Did you have invoices to compare with those barrels?—A. Did I have the invoices?

Q. Yes; did you see them?—A. Yes, sir; in two cases I did.

Q. What two cases?—A. I just told you about that—W. C. Lattimer and the Yorkville Banking & Mercantile Company.

Q. Where are those invoices now?—A. I don't know whether the merchants have torn them up or what they have done with them.

Q. Why didn't you take the invoices when you took the 9027 barrels?—A. What right did I have to them?

Q. I am not asking you that. Will you answer the question?—A. You say why didn't I take them?

Q. Yes.—A. Because I didn't have any right to them.

Q. Did you ask for them?—A. No, indeed; I didn't.

Q. You didn't ask the dealers to leave the invoices with you so you could compare them with the barrels, did you?—A. No; I made the comparison right there before the dealer.

Q. I know; but you didn't take your invoices?—A. They were not my invoices. They were the invoices of the Red "C" Oil Company to the merchants, and I had no right to have them.

Q. The barrels were empty, weren't they?—A. Oh, yes, sir; except one of them. There was one there at the Yorkville Banking & Mercantile Company that was not empty, but we emptied it and gauged it.

Q. Now, you talked in your direct examination about gauging some other barrels, didn't you?—A. Yes, sir. One case was Mr. Wash Hicks, at Rockville, Montgomery County, Maryland.

Q. When was that?—A. That was when I was with the Dixie Oil Works.

Q. I mean what year.—A. That was the first year I was with them, between 1902 and 1903.

Q. And you found that barrel was overgauged?—A. Found three of them there, sir; two of them were overgauged and one of them was not overgauged. One of them was exactly in accordance with the gauge rod I was using.

9028 Q. Those were Red "C" barrels?—A. They were, sir.

Q. The Red "C" was a pretty brisk competitor with you there, was it not?—A. Not so very much so.

Q. Well, it was a competitor, wasn't it?—A. Of course it was a competitor.

Q. Did you get those customers whose barrels you measured; did you get their business?—A. No, sir; I did not. I got a portion of Mr. Hicks's business and he countermanded it before the stuff could be sent out.

Q. So that you didn't accomplish anything by measuring these barrels?—A. Oh, yes, I did.

Q. What did you accomplish?—A. I told it to the trade right and left, and while I did not particularly get Mr. Hicks's business I got quite a number of other customers.

Q. By telling them that you had gauged Hicks's barrels or somebody's else barrels?—A. And that they were overgauged and I would be glad to gauge their barrels. Yes, I told that. I made all the capital out of it I could.

Q. You were quite strenuous in your efforts to gauge your competitors' barrels?—A. No more so than to gauge any barrel that happened to be questioned or my attention was drawn to.

Q. Everybody was your competitor, weren't they?—A. Of course they were.

Q. Did you gauge any Standard Oil barrels?—A. Oh, yes, sir.

Q. Where?—A. Just at different points.

Q. Well, where?—A. I can't tell you any one particular place.

Q. Tell one customer's name.—A. I just told you I couldn't do it.

9029 Q. You can't give the name of a customer?—A. Yes, sir.

Q. How is it your memory is so much better as to the Red "C" Oil Company's barrels than it is as to the Standard's?—A. Because Mr. Metzel of the Red "C" Oil Company was on all occasions damning me whenever he could find an opportunity, and I took the keenest pleasure in getting back at Mr. Metzel, and nobody but Mr. Metzel.

Q. Oh, I see.—A. It was just simply a personal feeling between Mr. Metzel and Mr. Wilmer.

Q. So that you had no particular grudge, then, against any salesman of the Standard Oil Company?—A. Yes; I did.

Q. Did you?—A. Yes, indeed, sir.

Q. Why didn't you gauge their barrels?—A. Because I took the business away from them and it was not necessary to do it.

Q. You could do so without?—A. Yes, I could.

Q. It seems you did not get the business of these men whose barrels you did gauge.—A. Do you know why I didn't get the business of Mr. Hicks?

Q. I am not asking you that.—A. I did get his business—a portion of it.

Q. Yes, but it was countermanded.—A. That is all right. I sold him again and he countermanded it, and I sold him again and he got that stuff and pronounced it as good as the Red "C" Oil Company's oil, to which he finally went back and stayed.

Q. Well, you couldn't have succeeded in convincing these
9030 men, could you, that the barrels were overgauged?—A. I did most decidedly convince them.

Q. And still they kept right on buying of the Red "C"?—A. Exactly so.

Q. And didn't buy of you?—A. Exactly so, in some cases; in Mr. Hicks's case particularly.

Q. How much did you say they were overgauged?—A. There were three barrels in the Hicks case. One of them was correct; one of them I don't know how it much overgauged, but one of them was two gallons and a half, and I remember that very distinctly, and I just ignored the other part and laid particular stress to Mr. Hicks that my rod was a correct one, in view of the fact that according to his gauging and mine, which coincided, one of his barrels was correct, showing that the Red "C" Oil Company had given him proper measure in that barrel, but in the other two, one of which amounted to two gallons and a half, they were wrong.

Q. Why didn't you prosecute these men for obtaining money under false pretences, or something of that sort?—A. Me?

Q. Yes.—A. I didn't care how they got the money. If I had been a merchant I would have put it onto them.

Q. Weren't you as much interested as the merchant? You were competing, weren't you?—A. Well, hardly.

Q. What is that?—A. Well, hardly. They were paying the bills and I was not.

Q. How many barrels all together, in all of your experience, did you gauge and find short—of the Red "C" Oil Company?—A. Just that one particular company?

9031 Q. Yes.—A. I couldn't tell you; I never counted them.

Q. You have told us all right now, haven't you?—A. All of them that I gauged? No; I have not.

Q. Of the Red "C"?—A. No, sir.

Q. That you found short?—A. No, sir; I did not, and they don't begin to be all.

Q. Give us some more.—A. I can't do it. I suppose if I charged——

Q. You have given us all, then, that you can remember?—A. Who else did I tell you about? I told you about J. W. Benson, didn't I, at Grifton?

Q. Yes; on your direct examination you did.—A. Then, you ask me about that and I will tell you about that.

Q. How many barrels did you gauge there?—A. I think there were five or six barrels in that one place.

Q. How much were they short?—A. They ran from one to two and a half and three gallons short in that particular case.

Q. And you called the attention of the dealer to that?—A. Yes, sir; and sold him.

Q. Did you continue to sell him after that?—A. When I went back again—can I tell this?

Q. Just answer my question. Did you continue to sell him after that?—A. Yes; I sold him after that.

Q. Did you sell him all of his oil after that?—A. No, indeed.

Q. Did the Red "C" sell him some?—A. Yes. Do you want to know why they did?

Q. Oh, I don't care, because I don't think you know.—
9032 A. Well, I do know. You have met people that were cranks along certain lines, haven't you?

Q. You discovered also, didn't you, that the Red "C" Oil Company were selling a Water White oil for Prime White oil? Didn't you make that discovery?—A. Yes; I did.

Q. And you discovered also that the Red "C" was selling a Prime White for Water White?—A. Yes, sir.

Q. They were working things both ways on you, weren't they?—A. Any old way they could get it they would do it?

Q. Now, can you tell the difference——

Mr. ROSENTHAL. Both ways against the middle?

WITNESS. Yes, sir.

Q. Can you tell the difference between Prime White and Water White oil?—A. If I had a sample of Water White oil and Prime White oil to compare I could tell you which was the closest to a Water White, but with the naked eye I could not do it. I mean with just simply one. You take a Prime White oil, take two samples and show me one——

Q. What is the difference in appearance and the looks between Prime White and Water White?—A. One has a yellowish cast to it.

Q. A darker color?—A. Not necessarily darker. It is sort of an amber cast.

Q. Which is that?—A. Amber is sort of a straw color.

Q. Is that Water White or Prime White?—A. That is Prime White.

Q. That is the best oil?—A. Yes, in the fire test.

9033 Q. Better than Water White?—A. There are some Prime White oils that have a higher fire test than a Water White oil, which could not be sold in this city.

Mr. ROSENTHAL. Better than what—as to price or what?

WITNESS. As to quality and fire test.

Q. Some of the Prime White is better than Water White?—A. I don't consider it so.

Q. Well, I thought you said so.—A. I said as far as fire test. I didn't say they were better; I did not mean they were better in quality. They are better in color.

Q. As I understand you now, if you get two bottles before you, one filled with Prime White and the other with Water White, by looking at them with the naked eye you can tell the difference.—A. I

can tell which one is nearest to the pure Water White. Now, you might show me two Prime Whites, you might show me a Prime White that was diluted with Water White, and as a comparison I could tell you which was nearest to Water White oil.

Q. You could tell by the naked eye, by looking at oil in a glass bottle, which is the nearest to Water White?—A. I could tell you which is the nearest, which looks most like Water White.

Q. Is that always a test as to the quality of oil—the clearness or whiteness of it?—A. Not at all.

Q. No?—A. No.

Q. Isn't it true that in order to determine the difference you have got to make a test?—A. Exactly so.

Q. To determine it accurately?—A. Yes, sir.

9034 Q. Did you make a test of these oils here?—A. Only by putting my oil in a lamp as compared with another oil in a lamp. When it gets down to the fire test and all that business I don't know much about it.

Q. Yours was produced by a different refinery, was it not?—A. Why, I don't know about that. They may all have come out of the same tank.

Q. And they may not?—A. Well, I said that it might have all come out.

Q. Is the Water White produced by any two different refineries exactly alike?—A. Huh! I don't know about that.

Q. You don't know?—A. No, indeed, sir. I am not an oil expert, sir.

Q. You are not an oil expert?—A. No, sir.

Q. Do you know how to test oil to find the difference between Prime White and Water White?—A. Oh, yes. That is, I can take two samples—an off-color oil is not a Water White oil. Water White is simply what it means—white like water, that is all it is.

Q. Well, is it whiter than Prime White?—A. Oh, yes.

Q. All the same color?—A. What, all the same color?

Q. All Water White.—A. I should think all of the same quality would be all of the same color.

Q. Exactly the same color regardless of the crude from which it was manufactured?—A. Now you are getting on technical points, and I don't know anything about it.

Q. All right.—A. I don't know how to analyze oil.

Q. Did I understand you to say you never gave a rebate?—A. I don't think that you have ever asked me that question, but you can ask me.

9035 Q. Did you say that to Mr. Rosenthal?—A. Yes.

Q. That you never gave a rebate?—A. Yes, sir; I did.

Q. Is that true?—A. That is absolutely true.

Q. Did you ever allow it in any settlement that you made for your company—ever allow a rebate to a dealer?—A. Oh, no.

Q. Do you know Gill & Company, of Richmond, Virginia, retail grocers, doing business at 700 North 21st street?—A. Gill & Company?

Q. Gill & Company—G-i-l-l.—A. No; I know that there was a merchant by the name of Gill in Richmond, but where his address was I don't remember.

Q. Did you sell him any oil?—A. Yes, sir; the Gill that I am referring to I did.

Q. Did you offer him a rebate of a half a cent a gallon?—A. No, sir; I didn't offer him a rebate. I offered to make a contract with him, and I did make a contract with him. But it was not a rebate.

Q. How is that?—A. And which was not a rebate.

Q. Well, you allowed him, didn't you, a certain concession from the regular price?—A. Provided—it was a contract, sir. He had to do something for me to do something.

Q. What did he have to do?—A. He had to buy of me exclusively.

Q. Oh, yes.—A. And then I would sell him a given quantity of oil.

Q. For how long?—A. Just until he used up that particular
9036 contract. If his contract was for a thousand gallons he couldn't get a thousand and one gallons from me.

Q. What was it for?—A. His contract?

Q. Yes.—A. I am sure I don't remember, sir.

Q. Did he finally get a rebate of a half a cent on that contract?—A. No, he did not get any rebate. I just simply lived up to my agreement with him.

Q. Didn't he pay you the full price and then didn't you allow him half a cent off on a gallon?—A. He paid the driver——

Q. The full price?—A. The full price. Now, then, when he had used up—when he had lived up—to his end of the line, then I gave him what I had promised to give him.

Q. How much was it?—A. I don't remember in his particular case what it was. I think, though, it was about half a cent a gallon.

Q. Now, let me ask you whether you know a firm by the name of Whitehurst Brothers, in Richmond, Virginia?—A. I can't particularly recall Whitehurst.

Q. Don't you remember that firm?—A. No, sir; I do not. I dare say they were there. I don't know.

Q. They were at 2201 Venable street, Richmond.—A. I don't particularly remember those parties, sir.

Mr. ROSENTHAL. When was that?

Mr. MORRISON. April 29, 1905. No, that is the date of the interview. They haven't the date here.

Q. Well, you remember, do you not, of having a deal with these gentlemen, Whitehurst Brothers?—A. I don't remember, sir.

Q. Well, you might have had a deal with them?—A. I don't remember it if I might have.

9037 Mr. ROSENTHAL. He says he doesn't remember that such a concern was in business there.

Mr. MORRISON. Oh, yes; he says he does remember.

Mr. ROSENTHAL. Oh, no.

WITNESS. I didn't say so, sir.

Q. Don't remember that name at all?—A. No, sir; I do not.

Q. Didn't you allow them a rebate of a half a cent a gallon and didn't they settle with you monthly?—A. That is not so, sir; no, sir. I didn't give anybody a rebate, and I never gave anyone a rebate.

Q. You call it a rebate?—A. I do not call it a rebate. You call it a rebate.

Q. You gave them a concession off, didn't you?—A. When they lived up to their contract I lived up to mine.

Q. They took 500 gallons of oil at a time, didn't they?—A. I don't know how much they took.

Q. Well, they may have done so?—A. I don't know that they did.

Mr. ROSENTHAL. Wait a moment. Not quite so fast. I object to the witness guessing as to whether such a concern existed; and, secondly, guessing as to whether he had a contract with them; and then, thirdly, guessing as to the nature of the contract.

Q. You had several of those contracts made with dealers in Richmond, hadn't you?—A. Yes, I suppose there were several of them in existence.

Q. And in all those cases where they took a certain amount of oil you settled with them periodically, didn't you, and allowed
9038 them half a gallon off from the regular price?

Mr. ROSENTHAL. No, that is not what he said.

WITNESS. No; that it is not what I said at all, sir.

Q. Just state what your contract was with these gentlemen.—A. I can't remember that contract word for word. I guess you have got a copy of it. I will acknowledge one if you will show it to me.

Q. I don't care about this particular contract.—A. Very well.

Q. But what was the arrangement that you had with the dealers there about allowing them half a cent?

Mr. ROSENTHAL. He doesn't say that he had any arrangement with the dealers.

WITNESS. I did not.

Q. Well, you did with some of them, didn't you?—A. Yes, sir.

Q. Go on and tell what it was.—A. I was losing my trade right straight along——

Q. I am not asking you about that.—A. You want to know about it, and I can only tell you in my words, in my own way.

Mr. ROSENTHAL. You answer in your own way or not at all.

Q. Answer the question, as to what the arrangement was.

Mr. ROSENTHAL. Now you answer it in your own way.

A. I was losing my trade to the Richmond Oil Company.

Mr. MORRISON. I object to that, because he has not been asked about losing his trade.

A. You want to know what brought it up, don't you?

Q. No, sir; I have not asked you what brought it up. I am asking you what the arrangement was.—A. I could not give you
9039 the wording of that contract word for word to save my life,

and I am not going to guess at it. I want to tell you the truth, sir, and nothing but it.

Q. You do not remember, then, what your arrangements were with some of those dealers?—A. I can't tell you the wording of that contract, sir.

Q. I am not asking you for the wording of it.—A. Well, you want the thing right, do you?

Q. I want to know just what the arrangement was.—A. I can't tell you without looking over one of those contracts, just what all of it was.

Q. You don't remember?—A. I know that they had to buy their oil exclusively of me.

Q. Yes.—A. They couldn't buy from the Standard Oil Company or the Richmond Oil Company either and get anything. If they bought one gallon of oil from anybody else they had killed their contract and they had nothing coming to them.

Q. I see. But if they lived up to that contract then they got a half a cent?—A. Yes, sir. I will tell you why I did that thing.

Q. I am not asking you why.

Mr. ROSENTHAL. You go right ahead.

Mr. MORRISON. Just answer my question.

WITNESS. I must explain how those contracts were given.

Mr. ROSENTHAL. You go ahead and explain it as part of your answer.

Mr. MORRISON. It is not part of the answer, and I object.

WITNESS. The tank-wagon drivers, if they could have a
9040 schedule price by which to sell oil, could sell to everybody at half a cent off, and where would I get my money? My business had to be regular. I had to make my reports to my superior officer. I had to have receipts for every cent that I spent, and in doing that I would make this contract. I couldn't lay my hands open to the tank-wagon driver, however honest he might be. In order to protect myself I would tell this merchant to pay him the regular price and explain howI could not allow the tank-wagon driver to just sell oil at any but one price. And that is the reason the man didn't buy at the face of his ticket. He bought at the face of his ticket, but if he didn't live up to the face of the contract, of the contents of his contract, he paid the full market price.

Mr. ROSENTHAL. Were those contracts in writing?

WITNESS. Yes, sir; they were in writing.

Q. You had an arrangement, then, with the dealer that the driver did not know about?—A. I don't know whether the driver knew about it or not. There wasn't anything about——

Q. Didn't you just tell me that you did not want the driver to know it?—A. No, sir; I did not. I did not want to put my hands in the driver's power. For instance, I gave you a contract, you might only take 20 gallons of oil. He would sell oil to somebody else and swear to gracious that you took 150 gallons and keep the difference.

Q. So, you didn't want him to know it?—A. I didn't care whether he knew it or not. I wanted him to keep his account straight, and that was the only way I could do it.

9041 Q. Did you want your drivers to know you had these arrangements with these particular dealers?—A. I didn't care who knew it.

Q. Did you tell them?—A. Why should I tell a tank-wagon driver?

Q. The question is, Did you tell them?—A. No; I didn't tell them. They wouldn't ask me such a question.

Q. And they went on and settled with the dealer at the regular price, at the open market price, didn't they?—A. Of course they did.

Q. And you came around and made the settlement with the dealer, didn't you?—A. In some cases I did.

Q. And when you didn't, who did do it?—A. Didn't anybody do it that I know anything about.

Q. In all the cases it was done then you did it?—A. Didn't work altogether——

Q. Now, answer my question. In all the cases in which there was an allowance of a half a cent a gallon on these arrangements, you made the settlement with the dealer yourself?—A. I made the settlement with everybody that I made an agreement with, had a contract with.

Q. And you did it personally? Did you have an arrangement of that kind with Mr. W. A. Shelton, of 25th and East Broad streets, Richmond, Virginia?—A. Yes; I had a contract with Mr. Shelton.

Q. Had Shelton been buying of the Richmond Oil Company?—A. He was originally a Standard Oil customer.

Q. I am asking you now if just before that he had not been buying of the Richmond Oil Company?—A. I don't know whether he had or not.

9042 Q. How many gallons of oil did you sell him at a time?—A. I don't remember.

Q. Was it less than 500?—A. I told you I don't remember.

Q. Can you remember of the fact whether it was more or less than 500?—A. No; I can not.

Q. Did you have an arrangement with him by which he was to buy his oil exclusively of you?—A. Yes, sir.

Q. For how long a time?—A. Until he used up that quantity of oil.

Q. Did you renew these arrangements?—A. Sometimes I did.

Q. Some of them were kept in force right along, were they not, month after month?—A. In some cases, yes; they were up to the time of my leaving.

Q. And were in force when you left?—A. I don't remember now whether they were all in force, and I don't think they were.

Q. Well, were some of them?—A. I don't think a single one of them was. I just felt that after I had——

Q. You have answered the question.—A. All right.

Q. Do I understand you that on every occasion in which you allowed this half a cent you had a written contract?—A. I think on every occasion I had, sir; but I am not sure of that.

Q. Who drew that contract up?—A. I drew it up.

Q. Did you have a blank form?—A. Had a typewritten form.

Q. Did you have regular blanks so that your contracts were all alike?—A. They were all pretty much alike. They may not all have been word for word alike; I don't know. It has been
9043 some time since I have been in that.

Q. You had no set form, then; you just wrote out each particular contract?—A. No; I didn't.

Q. Did you have a set form that you followed?—A. Some of them were. I dare say I wrote some of them.

Q. Who furnished you those forms?—A. Dixie Oil Works.

Q. Printed?—A. Typewritten. I don't know but some of them were printed; I don't remember.

Q. Did you keep a copy yourself?—A. Yes, sir.

Q. Did the dealer have a copy?—A. Yes, sir.

Q. Do you know the firm of Quarles & Winfield? They were at 17 Washington street, Richmond?—A. I think I know to whom you are referring, sir. I was thinking about somebody up in Manchester when you first spoke. I am not sure that they are the merchants that I have in mind.

Q. Did you not have an arrangement with those gentlemen such as you have just been talking about?—A. I don't know that I did.

Q. Will you say that you did not?—A. I will say that I don't know that I did.

Q. How many of that kind of arrangements did you have in Virginia?—A. I don't know.

Q. About how many?—A. I don't know how many I had.

Q. Several hundred?—A. Why, no, indeed, sir; I did not. Possibly there may have been ten or fifteen, or somewhere in that neighborhood, but they were not in the hundreds.

Q. Have you any recollection now as to whether you had an arrangement with this particular firm, Quarles & Winfield?—
9044 A. No, sir.

Mr. ROSENTHAL. He has already said that he does not remember the firm.

Mr. MORRISON. No; he does remember the firm.

WITNESS. I didn't say that I did, sir, and I don't. When you first spoke I thought it was a firm up in Winchester—an exceedingly disagreeable man. That is the kind of a man that made an impression upon me.

Q. You don't remember whether you had any particular deal with that company or not?—A. No, sir; I do not.

Q. Was there any company doing business in Richmond while you were there that represented itself to be independent?—A. Yes, sir.

Q. What company was that?—A. The Richmond Oil Company represented itself to be independent.

Q. So far as you know it was an independent company?—A. So far as I know it was.

Q. Did you represent your company to be independent while you were there?—A. No; I didn't care whether it was independent or not.

Q. I am not asking you that. I am asking you how you represented it to the people there.—A. I can only answer that question, sir, by telling you what my answer was to the trade that asked me. As far as I knew it did not have anything to do with the Standard Oil Company, but did that make any difference to them if I could sell them oil and I was treating them all right. I didn't find that that was object——

Q. Was there a retail merchants' association in Richmond?—
9045 A. I believe there was.

Q. Did you ever attend any of their meetings?—A. Indeed, I never did. I didn't have time enough to do that. That fellow Shelton that you mentioned was a member, I think he was an official of the retail merchants' association, and Mr. Mahle went before them frequently, though, and made a fool of himself.

Q. Well, you never did?—A. I may be doing it now, sir. I am trying not to.

Mr. KELLOGG. And you are succeeding.

WITNESS. I thank you very much, sir.

Q. Did you know a man by the name of Hazelgrove?—A. No, sir. I don't think I did. I certainly don't remember him if I did.

Q. There was some man who was disagreeable and impressed you, you say, and you remembered him. Was that W. G. Quarles?—A. Indeed, I don't know.

Q. He was a Richmond man.—A. I was not and I didn't get very close to those fellows down there.

Q. Do you know whether or not the retail merchants' association made an investigation of the oil business there, while you were there?—A. I don't know that they did. I will tell you one transaction I had with them if you would like to know that.

Q. Didn't they make an investigation and a report, and was not that report published in the newspapers and circulated generally over the town?—A. The——

Q. The retail merchants' association.—A. I never heard of it.

Q. Did you hear about their appointing a committee to in-
9046 vestigate conditions there in the oil trade in Richmond?—
A. No, indeed, sir. Those fellows would swear they wouldn't buy oil and they would all stand together and the first——

Q. Oh, just answer my question.

Mr. ROSENTHAL. Go ahead and answer. The first what?

WITNESS. The first one that had a chance would do what he darned pleased. They didn't mind promising to stand together and never doing it.

Q. Who was that?—A. The retail merchants' association. Mr. Shelton, one of the merchants, told me that. He said, "I'll tell you what will help your cause very, very greatly." He said, "We have

got a space up there that will cost you $12 a year. You talk to your people and get them to put an advertisement up there, and I have got a friend who can do some pretty neat painting, and he will paint you a tank wagon and put 'Dixie' on the side of it." I said, "I might as well get a band to go up there and play 'Way Down South in Dixie.'" I said, "We ain't spending $12 on any such thing as that."

Q. How did he happen to tell you that?—A. I suppose because of his interest in the retail merchants' association, and he turned right around and knocked them.

Q. Were your people the only company that stood out and never went into the retail merchants' association?—A. I never was in their place in my life, sir, and I don't know.

Q. Do you know a man by the name of Quarles?—A. You asked me that once, and I told you I did not.

9047 Q. Wait a moment—who was connected with a store at Ashcake, Virginia?—A. No, sir. The only Quarles I ever knew was the firm of Chanley, Quarles & Company, in Baltimore, wholesale crockery dealers.

Q. I show you now a report of the committee of the retail merchants' association, marked "Petitioner's Exhibit 917½."

Mr. ROSENTHAL. That is, something that you say is a report.

Q. And ask you if you ever saw that.—A. (After reading the paper.) I assure you, sir, that I have never seen anything that looked like that up to this time, sir.

Q. Did you see a publication in the newspaper that looked like that?—A. No, indeed, sir, I did not.

Q. Never saw that?—A. No, sir; I did not. I didn't know that any such meeting had ever taken place, I assure you.

Mr. ROSENTHAL. I object to it upon the ground that it is immaterial, and upon the further ground that there is no proof of its verity; there is no proof that it is what it purports to be.

9048 ARTIE PURSE, called on behalf of the defendants, being duly sworn, testified as follows:

Direct examination by Mr. CRAWFORD.

Q. Mr. Purse, where do you live?—A. I live in Washington, D. C.

Q. And what is your business there?—A. I am manager of the Home Safety Oil Delivery.

Q. In that city?—A. Yes, sir.

Q. And from what time have you been such?—A. Since February 1st of this year.

Q. You grew up in Seaford, Delaware, did you not?—A. Yes, sir.

Q. In the year 1899 were you connected for a short time with what is called the Seaford Oil Company?—A. Yes, sir.

Q. Did you manage it?—A. Yes, sir.

Q. Who owned that company?—A. Crew-Levick Company, of Philadelphia.

Q. Was the connection of Crew, Levick & Company with the Seaford Oil Company known there?—A. Not to my knowledge.

Q. It was run as a secret company of the Crew-Levick, was it?—A. Yes, sir.

Q. And you managed it for them?—A. Yes, sir.

Q. Now, after a little while, after some time, what change did you make in your business?—A. My brother, C. G. Purse, bought out the Crew-Levick Company.

Q. You mean he bought out their interest in the Seaford Oil Company?—A. Yes; bought out the Seaford Oil Company from

9049 Crew-Levick.

Q. And what did he do with it?—A. Why, I took it over from him and ran it in my name.

Q. You mean in the name of Artie Purse?—A. Yes, sir.

Q. And how long did you continue the business under your name?—A. As nearly as I know for about three years, as nearly as I can remember.

Q. That was carried down to 1903?—A. Yes, sir; 1903 about.

Q. Where were you between 1903 and 1908?—A. From 1903 to 1908 I was manager of the Home Safety Oil Delivery at Norfolk, Virginia.

Q. When you were in business for yourself at Seaford, Delaware, during the three years that you have mentioned, what did you sell?—A. I sold oil and gasoline.

Q. To what class of trade?—A. I sold it both to the consumer and wholesaled some little to grocers who were buying from me and would pay me a little more because I was a local boy.

Q. Was that all in the town of Seaford?—A. Some was in the vicinity, such as Oak Grove, Delaware; Alliance, Maryland; Woodland, Delaware.

Q. Several small towns in the neighborhood of Seaford?—A. Yes; several small towns that were unable to be reached conveniently with oil wagons.

Q. How did you get the oil to your customers?—A. I had a little tank wagon.

Q. Both in Seaford and also outside of it?—A. Yes, sir.

Q. That is, you used to drive to these towns from Seaford?—A. Yes, sir.

9050 Q. How far did you have to go to supply these outside places?—A. The Oak Grove drive was considered five miles, ten miles for the round trip.

Q. Over the country?—A. Yes. Alliance was six miles, twelve miles for the round trip. Woodland was five miles and a half.

Q. Your price to these outlying places was somewhat higher than at Seaford?—A. Oh, yes. The merchants would make the proposition to me and say, "Mr. Purse, if you will bring the oil we would rather pay you a cent or two a gallon more than have to fool with the barrel, with the leakage and loss," because I would give them actual measurement and put it right into the tank.

Q. When you first went into business on your own account, do you remember what the price on oil and gasoline was?—A. The price per gallon on oil was 12 cents, and in five-gallon lots——

Q. To whom?—A. To the consumer, and 11 cents on five gallons.

Q. You mean to say that a single gallon was 12 cents?—A. 12 cents.

Q. And five-gallon lots or more were 11 cents?—A. Yes, sir; to the consumer.

Q. What was the price of refined oil to the trade; I mean to the dealers?—A. Whatever the prevailing wholesale price was.

9051 Q. Do you happen to remember what that was?—A. Why, I think it was 9 cents.

Q. What was the wholesale price on gasoline?—A. 10½, to the best of my recollection.

Q. And what was the price at which you sold gasoline to the consumer?—A. 14 cents.

Q. Are those prices which you have named the prices in Seaford itself?—A. Yes, sir.

Q. How much more did you charge to the same class of customers in the outlying places?—A. When oil was 9 cents I got 10½ on the suburban drives.

Q. How about consumers out in the suburbs?—A. I didn't serve them.

Q. Oh, you only sold to dealers out in the suburbs?—A. That is all.

Q. And you charged them a cent and a half more than the same class of trade in Seaford, on account of the distance you had to drive?—A. Yes, sir.

9052 Q. Who else was selling oil in Seaford at that time?—A. The storekeepers and the Standard Oil Company at that time.

Q. Where did the storekeepers get their oil?—A. From the Standard Oil Company tank wagon.

Q. The storekeepers were selling to consumers?—A. The storekeeper was selling to the consumer; yes, sir.

Q. Was the Red "C" Oil Company in there at that time?—A. Not at that time, to my knowledge.

Q. Well, was it in there at any time during those three years?—A. Yes, sir.

Q. It came in there, did it?—A. It came in there; yes, sir.

Q. How soon after you started for yourself?—A. I guess it was about two years and a half—perhaps two years—after I had started for myself.

Q. Then it was during the last year of your period?—A. Yes, sir; during my last year.

Q. Do you remember what your prices were when they came in?—A. They remained the same—11 cents to the consumer in 5-gallon lots and 12 cents for a single gallon.

Q. What were your wholesale prices?—A. Still 10½ on the suburban drive.

Q. And in Seaford?—A. In Seaford I met the price of the Standard Oil Company.

Q. What was that price?—A. 9 cents.

Q. At what price did the Red "C" sell when it came in?—A. When the Red "C" came into Seaford they cut the price in barrels to 8½ cents—½ cent under the Standard Oil Company's price.

9053 Q. You mean to the——A. To the merchant.

Q. Did they sell to the consumer at all?—A. No, sir; not to the consumer direct, but indirectly.

Q. But they sold directly to the trade, did they?—A. Yes, sir.

Q. At half a cent less than the Standard's price?—A. They did.

Q. And that was the same price as your price, was it?—A. Yes, sir.

Q. Or yours was the same as the Standard's?—A. The same as the Standard's.

Q. Were you at that time connected in any way with the Standard?—A. Not in the least.

Q. Did you yourself own the business which you were conducting?—A. I did.

Q. You paid for it, did you?—A. Yes, sir.

Q. And it was absolutely your own?—A. Yes, sir; it was.

Q. When you say that the Red "C" sold at a cent less than your wholesale price, you mean net, I suppose?—A. That was net; yes, sir.

Q. You mean to say, after deducting the barrel and adjusting—— A. Yes, sir; they would take the barrel, with a rotary pump, to the merchant's store and pump the oil from their barrel and tank——

Q. So there was no question about selling the barrel and taking it back?—A. No, sir; no question at all. The barrel was not in the question.

9054 Q. So that the oil netted the merchant half a cent less than your oil at the price you were selling?—A. At 9 cents, and the Standard Oil Company's price 9 cents.

Q. The Red "C" was half a cent under both?—A. Half a cent under both.

Q. What was the effect of that cut in prices upon your trade?—A. Well, it was very effective on me, because there were certain merchants in that town who advertised the Red "C" oil at 8½ cents a gallon in five-gallon lots, and as many more gallons as you wanted—no limit to the gallons.

Q. Do you know at what price the Red "C" sold to those particular storekeepers?—A. Well, now, what——

Q. I ask you, Do you know? I do not ask you to guess. Do you know? Did they tell you?—A. I beg your pardon. I was not going to say that I guessed. I was going to say that their price to the merchant was 8½ cents, but what arrangement they had with this mechant to do that, I don't know.

Q. All you know is that certain of the storekeepers who bought from the Red "C" advertised to sell oil to consumers at 8½ cents a gallon?—A. At 8½ cents a gallon.

Q. At the time that you were selling to the consumers for 11 cents?—A. 11 cents; and 12 cents for a single gallon.

Q. And the price of these particular storekeepers was 8½ cents in 5-gallon lots?—A. 8½ cents.

Q. What effect did that have upon your trade?—A. Well, nearly every one of my customers who bought five gallons—and those
9055 who did not have 5-gallon cans purchased 5-gallon cans, and bought oil in 5-gallon lots.

Q. Did they stop buying from you?—A. Absolutely.

Q. And from whom did these customers buy—the storekeepers?—A. They would buy from the storekeepers.

Q. Who were buying at 8½ cents.—A. The margin was so great that they could not stand it, a saving of almost 3 cents on a gallon, or a saving of 2½ cents, at least.

Q. That was in Seaford?—A. That was in Seaford, Delaware.

Q. How long did this low quotation of 8½ cents last?—A. I can't recall just how long, but it was on some little time—quite a while. Perhaps it might have been on six months.

Q. And down to the time you left Seaford?—A. It was in pretty bad shape when I left Seaford; in fact, I had to leave there. It just put me out of business.

Q. What happened in regard to your business outside of Seaford?—A. They took all of it.

Q. Just what did they do, that you know of?—A. Of course, my price to those was 10½ cents, as I told you, a cent and a half above the regular price at Seaford. Of course, their representative made a drive for all my trade, and on the 8½ cents they simply came along and wiped it right out and took it away from me.

Q. Now, let me understand. At what price did the Red "C" sell to your out-of-town customers?--A. 8½ cents, the same as the local price at Seaford.

Q. In other words, they gave these people out at these suburban places the same price as they gave the trade in Seaford?—A. The same condition exactly; yes, sir.

9056 Q. Not making any extra charge for the driving?—A. That is the information that my trade gave me.

Q. At any rate, what happened to your out of town trade?—A. I lost it all.

Q. And do you know who sold it afterward?—A. I know who sold it.

Q. Who?—A. Mr. C. E. Hurley, who was acting as agent for the Red "C" Oil Company there at Seaford.

Q. How long did that state of things continue, as to the out of town trade—until you left town?—A. I think, to the best of my recollection, until I left.

Q. What did you finally do?—A. Why, I applied for a position, and was given a position——

Q. Before taking up that, what did you finally do about your business at Seaford?—A. Oh, I beg your pardon. I turned over what was left of it to my single brother, R. Lee Purse.

Q. You gave up the business, did you?—A. I gave up the business entirely.

Q. Because you could not make it go against that competition?—A. No, sir; I could not make it go.

Q. Your brother, R. Lee Purse, was then unmarried, I believe?—A. At that time; yes, sir.

Q. Had no family, of course?—A. No, sir.

Q. Whereas you were married and had a family?—A. Yes, sir.

Q. Then you went from there, you said, to Norfolk as manager of the Home Safety Oil Delivery there?—A. Yes, sir.

Q. Is that correct?—A. That is correct.

9057 Q. To what class of customers did the Home Safety Oil Delivery sell in Norfolk?—A. Absolutely to the consumer.

Q. Did you direct the canvassing for business there?—A. I did; yes, sir.

Q. For what class of consumers did you canvass?—A. I just took a house to house canvass.

Q. All over the place?—A. Yes, sir.

Q. Indiscriminately?—A. Yes, sir.

Q. Without any reference to whether the people might have bought from customers of the Standard or the customers of anybody else?—A. No, sir; any way I could sell a gallon of oil and build up the gallonage.

Q. And was that the policy which you continued as long as you were there?—A. While I was there; yes, sir.

Q. What other concern or concerns were selling to the consuming trade in Norfolk when you went there?—A. The storekeepers and the National Oil Company's peddling wagons.

Q. How many wagons did the National Oil Company have?—A. I think, to my knowledge, they had some two or three.

Q. And did their number remain the same?—A. No, sir.

Q. Or did they change?—A. They gained.

Q. They gained?—A. In wagons; yes, sir.

Q. Was the National Oil Company there in business when you came away?—A. Yes, sir.

Q. Is it there to-day, as far as you know?—A. To my knowledge, it is. I learned it from their men.

Q. How many wagons did they have when you came away?—A. Four.

9058 Q. And were there any individual peddlers there besides?—A. Two or three.

Q. And they competed with you, did they?—A. Yes, sir.

Q. In what shape did you deliver the oil to the consumer?—A. In a 1-gallon patent can.

Q. That is the same kind that other witnesses have testified to here, is it not?—A. Yes, sir.

Q. What were the special advantages of that can?—A. A safety can, nonspillable, convenient.

Q. You mean by that that if it were knocked over, the oil would not run out?—A. Not if the spigot was turned over properly—the spout, rather.

Q. Was there any other advantage?—A. Well, it was convenient for filling oil heaters and lamps; could be carried in any part of the house at all and a lamp could be filled very conveniently.

Q. You could fill a lamp from the can directly?—A. Very conveniently; yes, sir.

Q. What about oil heaters?—A. You could fill an oil heater very conveniently, without even taking the fount from the case of the heater.

Q. What sort of cans, if any, did the National Oil Company use in their deliveries?—A. Anything from a bottle to a 5-gallon can; anything at all. They would fill anything at all, it did not make any difference what.

Q. Did those cans belong to the customers or to the National?—A. Generally to the customer, although they furnished some cans.

9059 Q. Mostly they belonged to the consumers?—A. As a general thing.

Q. How about the consumers who were reached by storekeepers?—A. The storekeeper would fill any can that the consumer would take to his store.

Q. They did not have any cans of their own?—A. No; they did not have any cans of their own.

Q. These cans of yours when empty were returned, were they?—A. They were supposed to be. They were returned to the driver.

Q. That is, in exchange for a full can?—A. For a full can, on the next delivery.

Q. What was the weight of your gallon can full?—A. I presume they would average somewhere in the neighborhood of 6 or 7 pounds.

Q. What was the weight of the larger can used by the National Oil Company?—A. A 3-gallon can would average about 19 pounds, against 35 pounds on the 5-gallon can.

Q. So that your can was much lighter and easier to handle?—A. Oh, convenient, convenient for the lady of the house who had to perform those duties, in filling lamps, oil heaters, etc.

Q. When you took charge of the Home Safety Oil Delivery, in March, 1903, what was it charging to consumers for refined oil, if you recollect?—A. To the best of my knowledge, it was 11 cents.

Q. How much was gasoline?—A. I presume it was 13; in fact, I know it was.

9060 Q. And how did that compare with the storekeeper's prices to the consumer on the same articles?—A. Well, practically the same. Sometimes merchants handling a lower grade of oil than we were handling would get a little less price.

Q. On the same grade the price was the same?—A. On the same grade it was practically the same.

Q. How did you make your prices known?—A. We had a little tin sign. In fact, we painted the price on those, kind of stenciled it on, you know, or painted it on with a brush, the price of oil being 11 cents, and the gasoline 13 cents. Then we would tack this on the signboard, to make it prominent, so that the customers could see absolutely what they were buying.

Q. As you went around town, did you carry that on the wagon?—A. Oh, that was a very strict rule. They had to show that at all times.

Q. Always on the wagon, was it?—A. Yes, sir.

Q. In plain sight?—A. Yes, sir.

Q. Did you come into competition with the National Oil Company there?—A. Frequently; yes, sir.

Q. Did they and you sell, or try to sell, to the same people?—A. Oh, yes, sir.

Q. Were there any instances where you lost customers whom you had previously served, lost them to the National Oil Company?—A. I have lost some to the National Oil Company.

Q. Can you mention some of them?—A. You mean at a cut price?

9061 Q. Well, tell me the customers whom you lost to the National Oil Company, and then we will talk about the reason afterward.—A. I can't recall that we ever lost any customers to the National Oil Company unless it was through a cut.

Q. Very well, then, tell me about those first. First mention who they were, or some of them.—A. I lost the Southern Garage.

Q. What is the name of the people running the Southern Garage?—A. Mr. Harmon.

Q. Any others?—A. I lost W. H. Minor, 29th and Granby.

Q. Any others?—A. I lost D. Paul, A. L. Lum & Company, and I lost a doctor—Dr. Jackson.

Q. Where was his place?—A. And I lost Jordan and Davis. Dr. Jackson was 231 Granby street, to the best of my knowledge.

Q. Any more?—A. I mentioned Jordan and Davis.

Q. Yes.—A. I think that is all.

Q. Do you remember a man named Dr. Saunders?—A. Dr. Saunders; yes, sir.

Q. What about him?—A. I lost him.

Q. Where is he?—A. He is on 28th street, near Granby.

Q. Do you remember a man by the name of Graves?—A. Eugene E. Graves, 57th and Fayette streets.

Q. What about him?—A. I lost him, but I regained him, on account of lack of service.

Q. You lost him temporarily, at any rate?—A. Yes, sir.

Q. Do you remember a concern called the Krangleine Candy Company?—A. Yes, sir.

Q. Where is that?—A. Corner of Brewer and Washington streets.

Q. What about them?—A. I lost them.

9062 Q. Was there a man named Dr. Smith?—A. Dr. Smith, 179 Granby street. I lost him.

Q. Were there some concerns on Queen street?—A. I lost 222 Queen and 212 Queen street.

Q. Do you remember the names?—A. They were consumers, yes, sir.

Q. Do you remember the names?—A. I don't remember the names.

Q. Do you remember the business?—A. They were restaurants, eating houses.

Q. Had all those persons, or all those concerns you mentioned, been customers of yours?—A. Yes, sir.

Q. Bought of you regularly?—A. Yes, sir.

Q. And you lost them all, did you?—A. Yes, sir.

Q. And after you lost them, do you know who sold to them?—A. The National Oil Company.

Q. At what time was it that you lost these customers you have mentioned—what year?—A. That was during last year.

Q. You mean 1907?—A. Yes, sir, last year, the fall of that year.

Q. What was the cause of their getting that trade away from you, if you know?—A. The cause was a cut, so they told me, but would not give me the price.

Q. Who told you?—A. The parties just named.

Q. The merchants, you mean?

Mr. KELLOGG. All you know about it is what they told you?

WITNESS. The party who purchased the oil.

Mr. KELLOGG. I say, that is all you know about it, is what they told you?

WITNESS. That is what they told me.

9063 Mr. KELLOGG. That is all you know about it, is it?

WITNESS. Well, isn't that enough?

Mr. KELLOGG. I ask you if that is all you know about it?

WITNESS. I say, is not that sufficient.

Mr. KELLOGG. Will you answer that question, or won't you?

WITNESS. I answered it the best I could.

Mr. CRAWFORD. Oh, the witness knows a whole lot besides.

Mr. KELLOGG. Is that all you know about it, what they told you?

WITNESS. Absolutely. They told me. That is the best evidence in the world.

Mr. KELLOGG. I move to strike the evidence out as hearsay.

Mr. CRAWFORD. We will strike that out if you will strike out about 500 pages of your testimony of the same sort.

Mr. KELLOGG. You attend to your own case. That is enough for you. You will be busy enough.

Mr. CRAWFORD. Well, I can at least answer my opposing counsel politely.

Mr. KELLOGG. I don't think you can.

WITNESS. That is an awful way to come at a man, I want to say, with all respect to you.

Q. Never mind. That is all forgotten. Let us forget it all. You were told by these customers that the National Oil Company had cut your price?

Mr. KELLOGG. That is objected to as incompetent.

A. The trade discontinued buying from me. When I visited the trade to ask the reason why they quit, they came out and told
9064 me directly, "Mr. Purse, the National Oil Company's driver has given me a better price than yours, and therefore I am obliged to deal with him and discontinue you. So therefore your wagon need not come here any longer."

Q. And with the exception of the one case you mentioned, the National kept those customers, did it?—A. I did not sell them any more during my time in Norfolk.

Q. Did you, in any of these cases, reduce your price in order to meet——A. No, sir; we had to maintain the price that was tagged on the little sign, the price sign on the wagon. We had to maintain that.

Q. Did you lose any employees while you were there in business?—A. I did.

Q. Will you mention them?—A. The first driver that I lost was a driver by the name of J. H. Armstrong.

Q. He drove one of your tank wagons?—A. He drove one of my delivery wagons.

Q. And did he leave your employ?—A. He did; absolutely.

Q. Did you ever see him after that?—A. He drove the wagon in the yard one Tuesday evening; I can't recall the date, but to the best of my knowledge it was in January, I think. I never saw him——

Q. January of what year?—A. January two years ago. That would be 1906, wouldn't it?

Q. I should say so; yes.—A. That is right.

Q. And where did you see him after that?—A. He came to my office three or four days hence.

9065 Q. Did you see him driving another wagon after that?—A. Yes, sir. The next of my knowledge he was on the National Oil Company's wholesale wagon.

Q. That was two years ago?—A. That was two years ago.

Q. What has he been doing since?—A. He is on that wagon today, if the National Oil Company are running their business.

Q. What was he doing when you left Norfolk?—A. He was still on the wagon, driving it.

Q. When you left Norfolk he was still on the wagon?—A. Still driving the wagon.

Q. And had been during the two years since he left you?—A. Yes, sir.

Q. Now, what effect, if any, did Armstrong's leaving you and going to the National have upon your consuming trade?—A. All of the customers, of course, that Mr. Armstrong had been serving while driving my wagon, he put the National Oil Company retail drivers right after that trade.

Q. What was the result on your trade?—A. The result was that they took some of the business; not any great portion, after the facts had been known, how he treated me.

Q. But you did lose some of the trade?—A. I lost some of it; yes, sir.

Q. And the National got it?—A. Yes, sir.

Q. Do you remember a man named Grandy?—A. I do; very well.

Q. What is his first name?—A. M. R. Grandy.

Q. What was his position?—A. Mr. Grandy's position with me at the time he left me, was route agent.

9066 Q. What is a route agent?—A. A route agent is a man who breaks in extra drivers. He is familiar with all the routes and can operate a wagon during the absence of a regular driver.

Q. Does he go around with the new drivers?—A. Goes around, breaks them in, introduces them to the trade.

Q. He knows the customers, does he?—A. He knows all the customers.

Q. What happened to Mr. Grandy?—A. Mr. Grandy, while I was on my vacation——

Q. When?—A. About a year ago last summer.

Q. You mean the summer of 1907?—A. Yes, sir; 1907. I was off on my vacation, and Mr. Grandy escorted me to the cars and said, "While you are away I am going to try to do everything I can for you."

Q. Never mind that. What happened in regard to his leaving?—A. I am a little off the track. He simply left and took all of my trade that he could.

Q. He left your employ during your absence?—A. Yes, sir.

Q. Did he send you any word?—A. No, sir. I was not home.

Q. When you came back you found he had left your employ, did you?—A. Yes, sir.

Q. Do you know what he did when he left you, left your business?—A. I was advised by special delivery that he was going on the National Oil Company retail wagon.

Q. Do you know what he did?—A. I know what he did; yes.

Q. What did he do?—A. He drove the National Oil Company retail wagon after leaving me.

9067 Q. Did he continue to do that?—A. He was driving it when I left Norfolk.

Q. Did that have any effect on your trade with the consumers?—A. He was absolutely familiar with all of my trade, and of course he took every customer that he possibly could.

Q. Did you lose some customers?—A. Oh, certainly I did.

Q. How many?—A. I would not like to say just how many. I might make a mistake, but I guess I must have lost twenty-five.

Q. They were customers whom you had previously sold?—A. I had sold them all the time and he had served them for me.

Q. And he had served them for you?—A. Yes, sir.

Q. And after he left you they were served by whom?—A. They were served by him.

Q. On what wagon?—A. On the National Oil Company wagon.

Q. Do you remember a man named Carruth?—A. Yes, sir.

Q. What is his first name?—A. J. L. Carruth.

Q. Did he work for you?—A. Yes, sir.

Q. In what position?—A. He was a driver.

Q. Drove a tank wagon?—A. Drove a tank-delivery wagon.

Q. You say a delivery wagon?—A. A delivery wagon, that is all.

Q. How do you distinguish?—A. A delivery wagon is delivering oil in the 1-gallon cans, you understand.

Q. Oh, yes; of course.—A. Not in the wholesale business.

Q. It is my error. I was confused.—A. That is all right.

Q. Did he leave you?—A. Yes, sir.

Q. And with whom did he go?—A. The National Oil Company.

Q. As a driver?—A. Yes, sir.

9068 Q. When was that?—A. That was in August, 1906, I think.

Q. And did he continue to work for the National Oil Company?—A. Yes, sir; he was driving a wagon for them when I left.

Q. And had been all the time after he left you?—A. He was driving there when I left; yes, sir.

Q. Did his change to the National have any effect on your business?—A. He took every customer he could. He simply built up a route on my trade.

Q. Did you lose some customers?—A. Oh, I did lose them; yes, sir.

Q. How many?—A. I would not like to say how many, I might make a mistake; but I lost some of those I had.

Q. A large number?—A. That I called over in the list that you just asked me.

Q. Well, he did take a considerable number, did he?—A. Oh, I should say. He took lots of them, quite a number.

Q. At any time while you were there in Norfolk, did you cut the prices of the National Oil Company?—A. No; we did not cut any price at all. Our price was generally a uniform price, you know, always.

Q. When you left Norfolk, how many wagons did the National Oil Company have in operation?—A. They had four retail wagons and three wholesale wagons. Perhaps they might have had an extra wagon.

Q. Were all these wagons operated under their own name?—A. All but one wagon was operated under their own name. There was a covered wagon which had the name of E. S. Philhower, on the side.

9069 Q. Who was Philhower?—A. Philhower was a man who had been in the oil business in his own name, you understand, had gone out of business, and this wagon was taken over as a part of the equipment of the National Oil Company, I presume.

Q. When?—A. It was on the street when I went to Norfolk.

Q. And continued while you were there?—A. It was continued while I was there. They still had the wagon when I left.

Q. Did Philhower continue to run it?—A. No, sir.

Q. He dropped out, did he?—A. He was a merchant on Bramilton avenue, in the hardware business.

Q. How do you know it was the National wagon?—A. The National Oil Company's horse went with it, and a man who was employed by the National Oil Company was driving it. That is all the evidence I have.

Q. Did the name Philhower remain on the wagon?—A. The name Philhower always remained on the wagon; when I saw the wagon last it was on there.

Q. He had been a peddler?—A. He had been a peddler.

Q. That is, he had sold to the consuming trade?—A. Sold to the consumer.

Q. What means did you use to promote the business of the Home Safety Oil Delivery while you were in Norfolk?—A. I did the majority of the canvassing, soliciting, working directly with the drivers on the wagon, checking the route book, seeing that the customer was getting proper service.

Q. What points did you talk up to the customers?—A. We talked on the grade of oil that we were selling, which was Aladdin oil.

9070 We talked on our can, that it was a convenient package, being handy to a lady in filling lamps, and also filling the tank on a gasoline stove.

Q. Did you cut any prices in order to get business?—A. Oh, no; we maintained our regular prices. We talked generally on the can.

Q. Do you know a man named Kroeder?—A. Yes, sir; George Kroeder.

Q. Who was he?—A. He was a very prominent driver of the Standard Oil Company at Norfolk.

Q. A tank-wagon driver?—A. Yes, sir; he was a tank-wagon driver.

Q. Did he leave the Standard's employ?—A. Yes, sir; he left the Standard Oil Company's employ.

Q. And do you know where he went?—A. The next time I saw him after he left them he was driving a new equipment for the National Oil Company.

Q. The name "National Oil Company" was on it?—A. On the wagon; yes, sir.

Q. Did he continue to do that?—A. He was driving that wagon when I left Norfolk.

Q. Did you, while you were in Norfolk, make any special effort to get trade away from peddlers who did not buy from the Standard Oil Company?—A. No; we just made a general canvass.

Q. Did you consider that point at all in making your canvass?—A. Oh, no; we took it house to house; anywhere we could sell a gallon and sell it honestly why we tried to do it.

Cross-examination by Mr. KELLOGG:

9071 When did you go to Norfolk?—A. I went to Norfolk, to the best of my recollection, some time about 1903.

Q. What companies were doing business when you went there?—A. You mean the companies in the oil business?

Q. Yes.—A. The Standard, the National, and the Home Safety.

Q. When did the Home Safety start in there?—A. That is before my day.

Q. You don't remember?—A. No; I don't know when it started.

Q. You found the National there doing business?—A. They were there when I went there.

Q. And the Standard?—A. And the Standard.

Q. Where did you get your oil?—A. From the Standard Oil Company.

Q. Did you advertise that your company belonged to the Standard Oil Company?—A. No, sir.

Q. Did you advertise that it did not?—A. I didn't know whom it belonged to.

Q. You did not know anything about it?—A. I did not ask the question—never in my life.

Q. Never had any curiosity on the subject?—A. No, sir.

Q. To whom did you report?—A. To Mr. C. B. Osmond.

Q. At what place?—A. At Baltimore, Maryland.

Q. What was the number of the street?—A. The street number—we did not have that. We used a post-office box, but I can't just recall the number.

Q. You used a post-office box?—A. Yes.

Q. Were your envelopes directed for you?—A. I directed my own, sir.

9072 Q. To C. B. Osmond, post-office box, Baltimore?—A. Mr. C. B. Osmond, post-office box number, Baltimore, Maryland.

Q. You bought your oil of him?—A. No, sir.

Q. Bought it through the Standard Oil Company?—A. I bought it from the Standard Oil Company directly.

Q. Then you knew it belonged to the Standard Oil Company?—A. No, I did not.

Q. You did not?—A. I did not.

Q. And the trade did not know it either, did they?—A. The trade?

Q. Yes.—A. They did not ask me.

Q. You never were asked that question?—A. Why, I have been asked that question.

Q. And what did you say?—A. I told them that if it was I did not know it.

Q. You denied it, didn't you?—A. No, I did not deny it. I did not know it, to deny it.

Q. It was charged that you were a Standard Oil Company concern, was it not?—A. It was not charged, no.

Q. It was never said?—A. Well, I have heard you just say so.

Q. Wasn't it said in Norfolk?—A. It might have been said, I don't know.

Q. Was it said?—A. I don't know.

Q. You have heard it said?—A. I have heard it said.

Q. Then it was said?—A. It might have been said.

Q. Was it or was it not?—A. Didn't I say it might have been?

9073 Q. I asked you if it was said by the trade that it belonged to the Standard Oil?—A. I have heard it said, "Did it belong to the Standard Oil Company?" "I don't know."

Q. And you answered that you did not know it?—A. I answered that I did not know it.

Q. You heard that a good many times, didn't you?—A. Not very many times. People were not very inquisitive about it.

Q. They were not very inquisitive?—A. No, they were not; not in my hearing.

Q. But you heard it more than once, didn't you?—A. Well, many a thing you can hear more than once.

Q. Down to what time did you run it as the Home Safety Oil Company?—A. I ran it from the time I went there till I left.

Q. When did you leave?—A. I went in 1903 and left there in 1908, this year.

Q. About what time was it that the Standard came out and advertised, or acknowledged, that it owned the Home Safety Oil Company?—A. I think it was some time about 1905, I don't know.

Q. About 1905—about the time the Bureau of Corporations were investigating it, wasn't it?—A. I don't know about that.

Q. You did not hear anything about that?—A. Well, I did not know anything about it.

Q. Did you hear anything about it?—A. No, I did not hear anything about it.

Q. You never heard of that thing—you never heard that the Bureau of Corporations investigated the Standard Oil?—A. I never heard it, no, sir, until you just told me about it. You just told me about it.

9074 Q. That is the first time you ever knew of it?—A. That is right.

Q. You never heard of one of their agents being in Norfolk? Did you ever hear of the Government investigating the Standard Oil, down in——A. Yes, sir.

Q. About 1905, was it?—A. About 1905—I don't know that I heard it, sir.

Q. You did not hear it?—A. I don't know that I did about that time. I have heard it since.

Q. Oh, you have heard it since. Did you hear it about that time?—A. I just told you that I don't know that I heard it, sir.

Q. Well.—A. I can't tell you anything about it.

Q. You have no recollection about it?—A. I have no recollection; no, sir.

Q. You didn't know there was a man down there investigating?—A. No, sir; I did not.

Q. Never heard of it?—A. I did not.

Q. Where did you have your yard in Norfolk?—A. As near as I can tell you, it was on Church street, situated near the Norfolk & Western Railroad, near the suburb of Park Place.

Q. Near the Standard Oil?—A. Very near it; yes, sir.

Q. About 1905 they came out and advertised that they owned the Home Safety, did they?—A. Yes, sir; they did.

9075 Q. That was the first they had advertised it?—A. That was the first time that they advertised it, to my knowledge.

Q. Did you go around to the Standard customers and try to get their trade?—A. I was not selling the wholesale trade, sir.

Q. You were not selling any wholesale trade?—A. I was not; no, sir.

Q. The Standard were selling purely to the retailers?—A. To the retailers?

Q. Yes, weren't they?—A. They were selling to the merchants.

Q. Well, to the retail merchants?—A. That is it.

Q. That is what I say. Then the Standard Oil Company were selling to the retailers?—A. They generally do.

Q. And the National Oil Company was selling to the trade; that is, I mean, to the consumers?—A. They were selling to the consumers and to the merchants.

Q. Both?—A. Both; yes, sir.

Q. And when you went there, in 1903, you started in to sell to the consumer?—A. They were selling to the consumer when I went there, and I continued right along in the business.

Q. So that the Standard Oil Company had a secret company selling to the consumers, in competition with the National Oil Company, didn't it?—A. That is what you say.

Q. Is that true?—A. I don't know it, sir.

Q. Did you know that they owned it at that time?—A. I did not, sir.

Q. Did you ever hear afterwards that they owned it at that time?—A. No, sir.

9076 Q. Do you know now that they owned it at that time?—A. Do I know now——

Q. Yes.—A. They might have bought it as far as I know.

Q. Do you know now that at that time they owned it?—A. No; not at that time.

Q. You don't know it now?—A. No; I do not.

Q. You never heard it until we came here, that they owned it at the time.

Mr. CRAWFORD. That is not the question.

Q. I asked you if you knew or heard that they did own it at that time.—A. I tell you emphatically; no, sir.

Q. You never heard it?—A. I never heard it.

Q. Never heard it before?—A. No, sir.

Q. This is the first time you ever heard that the Standard Oil Company owned that plant in 1903, when you went there?—A. No, sir.

Q. This is the first time you ever heard of it, is it?—A. It is not the first time.

Q. When did you hear it?—A. After that came out, and I was notified that the Standard Oil Company had purchased it, why I came out and displayed it on my wagon and on my billing.

Q. When did the Standard say they purchased it?—A. I didn't know whether they had purchased it or what is was.

Q. Did they advertise that they had purchased it?—A. I don't know what they advertised it.

Q. What do you mean by saying when they came out and said that they had purchased it?—A. I said when it came out. You
9077 asked me about it, and I am telling you.

Q. What other secret company did you ever operate for the Standard?—A. I never operated a secret company for the Standard Oil Company in my life, to my knowledge.

Q. You never did?—A. I never did.

Q. When you were at Seaford, Delaware, did you sell out to the Standard Oil Company?—A. No, sir.

Q. Never did?—A. No, sir.

Q. Did the Paragon Oil Company sell oil in Seaford?—A. They did.

Q. When you were there?—A. Yes, sir.

Q. During that three years, after you bought your brother out, that you were doing business there alone, what companies were selling there?—A. Well, after I took charge of it there—you mean the first?

Q. During the three years when you were doing business by yourself?—A. The Standard Oil Company was there, and myself, until the Red "C" Oil Company came in.

Q. Now, when the Red "C" Oil Company came in, what other company appeared?—A. No other company, sir.

Q. I thought you said the Paragon Oil Company sold there?—A. No; I did not.

Q. Did it ever sell there?—A. I told you it did sell there.

Q. When?—A. Previous to my taking charge of the company after buying it outright.

Q. It did?—A. Yes, sir.

Q. That is, after you bought it out and previous to your
9078 taking charge of it, you mean?—A. No; not after. I did not say that.

Q. Please tell us when the Paragon Oil Company came in there.—A. It was there before I went in business for myself. That is it.

Q. It was there when you and your brother were running the business?—A. It was there; yes, sir.

Q. Now, after you and your brother bought the business from the Crew-Levick Company, and between that time and the time you bought it the Paragon appeared, did it?—A. No; it did not.

Q. When did it appear?—A. I have just told you when it appeared.

Q. When?—A. The Paragon Oil Company came in there about the same time that the Seaford Oil Company came in there.

Q. When was that?—A. I presume that was about ten years ago.

Q. About 1898?—A. It might have been about somewhere along there.

Q. Who owned the Seaford Oil Company when the Paragon came in there?—A. The Crew-Levick.

Q. And the Paragon commenced to sell oil there?—A. The Paragon commenced to sell oil there.

Q. Did it advertise that it was a Standard Oil concern?—A. It did not.

Q. Who was managing it?—A. I didn't know anything about it.

Q. You didn't?—A. No; I didn't; and didn't have the curiosity to ask either.

Q. Did it start in and cut prices?—A. Not to my knowledge.

9079 Q. Do you know whether it did or not?—A. Not to my knowledge.

Q. Do you know whether it did or not?—A. I told you, not to my knowledge. I don't know.

Q. Then you don't know?—A. I don't. That is right.

Q. Why don't you say so?—A. That is right.

Q. How long did it do business there?—A. I don't know that.

Q. Was it doing business there during the three years that you were in business?—A. It was not.

Q. After you went into business it withdrew, did it?—A. What?

Q. Did the Standard Oil Company own your business during those three years?—A. No, sir.

Q. It did not?—A. No, sir; it did not; absolutely.

Q. When did you commence to work for the Standard?—A. I just told you; about 1905, I think.

Q. When did you go to work for one of the Standard companies?—A. 1905.

Q. When did you go to work for the Home Safety?—A. In 1905.

Q. I thought you said it was 1903.—A. I told you 1905.

Q. Didn't you go to Norfolk in 1903?—A. I did.

Q. Well, didn't you go to work for the Home Safety, then?—A. I told you I went to work for the Home Safety.

Q. I asked you when you went to work for the Home Safety.

Mr. CRAWFORD. No; you did not ask him that. You asked him if he went to work for the Standard Oil Company in 1903.

Q. Did you go in 1903 from Seaford, Delaware, to Norfolk?—A. I did.

Q. Now, when you quit Seaford, with whom did you make

9080 your arrangements to go to Norfolk?—A. With my brother, Mr. C. G. Purse, sitting right there.

Q. Was he then working for the Home Safety?—A. He was then working for the Home Safety.

Q. Did you sell out your business at that time in Seaford?—A. There was not much left of it. I turned it over to my brother, R. Lee, what was left.

Q. What did he do with it?—A. He disposed of it.

Q. To whom?—A. I think, to my best knowledge, a young man by the name of Favinger.

Q. Now, during all the time that you were at Norfolk, working for the Home Safety, you never sold oil under the price of the National?—A. Well, the price remained about the same between the National and our price. They were about uniform.

Q. About the same?—A. They were about the same.

Q. Did you ever sell oil under their price?—A. No, sir.

Q. Never?—A. No, sir.

Q. You swear you never sold any under their price?—A. Well, I say under their price. Of course, there was a concession there, you understand—or not a concession, but the sign, that was self-explanatory; say, oil was 12 cents a gallon, you understand, the same as the National Oil Company.

Q. The same as the National?—A. That is the idea.

Q. Did you make any contracts?—A. No, sir.

Q. Never made any contracts?—A. No, sir.

Q. And you never took one cent off that price?—A. No, sir; I did not take it off.

Q. And that price was never under the price that the National was selling for?—A. Was never under?

9081 Q. Yes.—A. To my knowledge, it was never under.

Q. Do you know whether it was or not?—A. No, sir; I don't.

Q. Did you ever hire a driver away from anybody else?—A. No, sir.

Q. Never did?—A. No, sir.

Q. Never hired a driver that had been working for somebody else?—A. No, sir; not unless he applied to me for a position.

Q. Oh, if he applied to you for a position, you hired him?—A. No; I never hired a driver in my life—I never employed any man unless he applied to me for a position.

Q. How do you know that the National did? How do you know your men did not apply to them for a position?—A. How do I know they did not?

Q. Yes.—A. Well, the best evidence in the world is the way they quit.

Redirect examination by Mr. CRAWFORD:

Q. How did they quit?—A. Why, without a minute's notice; just simply drove the wagon into the yard and quit, and go home, and the next thing I know of them they would be on the wagon.

Q. On whose wagon?—A. On the National.

Q. When you and your brother bought the Seaford Oil Company, so-called, did you buy out any other concern?—A. We bought the Paragon.

Q. What did you do with the business of the Paragon?—A. We just took both businesses.

Q. You combined it with the business of the Seaford Com-
9082 pany?—A. Of the Seaford Oil Company.

Q. And conducted the business under what name?—A. Artie Purse.

Q. And the name of the Paragon dropped out, did it?—A. Yes, sir.

Q. Was that the end of the Paragon Oil Company in Seaford?—A. As far as I know.

Q. It was not any more, in other words, after you started in business?—A. No, sir.

Recross-examination by Mr. KELLOGG:

Q. Of whom did you buy the Paragon oil?—A. I did not buy it.

Mr. CRAWFORD. He said his brother bought it.

WITNESS. Didn't he tell you yesterday he bought it?

Q. Whom did he buy it from?—A. I did not know anything about the transaction.

Q. He bought it of Blaustein, didn't he?—A. Didn't I tell you that I didn't know?

Q. You don't know?—A. That is the idea.

(An adjournment was here taken until the morning of Wednesday, September 16, 1908, at 10.30 o'clock a. m.)

9083 ROOM 715, CUSTOM-HOUSE, NEW YORK CITY,
Wednesday, September 16, 1908, 10.30 a. m.

The hearing was resumed before the special examiner, Hon. Franklin Ferriss, at the above time and place.

Present: On behalf of the petitioner, Mr. Frank B. Kellogg, Mr. Charles B. Morrison.

On behalf of the defendants, Mr. Moritz Rosenthal, Mr. F. L. Crawford, Mr. Douglas Campbell.

J. B. BROCKETT, called as a witness on behalf of defendants, being duly sworn, testified as follows:

Direct examination by Mr. ROSENTHAL:

Q. What is your name, please?—A. J. B. Brockett.

Q. Where do you live?—A. Norfolk, Virginia.

Q. How long have you lived there?—A. About fifteen years.

Q. What is your business, Mr. Brockett?—A. Tank-wagon superintendent for the Standard Oil Company.

Q. For how many years?—A. Since the first part of 1906.

Q. And what places do you cover as tank-wagon superintendent at Norfolk?—A. Norfolk, Portsmouth, Lynn Haven, and the small towns in the adjacent territory.

Q. How far is Portsmouth from Norfolk?—A. Just across the river.

Q. And Lynn Haven?—A. Lynn Haven is about sixteen miles.

Q. Were you connected with the company in any way before 1906?—A. Yes, sir.

9084 Q. In what capacity?—A. In different office capacities—billing clerk and assistant bookkeeper.

Q. Where—at Norfolk?—A. At Norfolk; yes, sir.

Q. As superintendent of tank-wagon service at Norfolk, in a general way what are your duties?—A. My duties are to call on the tank-wagon trade, solicit business, and to handle the men, instruct them, see that their work is properly performed.

Q. Where do you get your prices from?—A. From the Norfolk office, from the special agent.

Q. The prices that the tank-wagon drivers charge?—A. From the special agent at Norfolk.

Q. He is your superior officer, is he?—A. Yes, sir.

Q. Do you know the National Oil Company?—A. Yes, sir.

Q. Has that company been a competitor of the Standard's at Norfolk?—A. Yes, sir.

Q. Since when, to your knowledge?—A. Since I remember—ever since I have been with the company.

Q. You say that is thirteen years?—A. No; I have only been in Norfolk that long. I have been with the company a little over eight years.

Q. Did I understand you to say that you at one time had anything to do with driving the tank wagons yourself?—A. No, sir.

Q. With selling the oil?—A. I sell oil very often.

Q. As superintendent of tank-wagon service?—A. As superintendent; yes. Occasionally I have to drive a tank wagon, when the assistant is a new man—when I am showing a new man the work.

9085 Q. It was charged and so testified by certain officers of the National Oil Company who testified for the Government in this case at Washington that the Standard Oil Company instituted price cuts in the handling of the business at Norfolk, and thereby got away the business of the National. First, making a general reply, what do you say as to whether that is true or otherwise?—A. That is certainly untrue since I have been with them.

Q. And you have been with them for eight years?—A. Yes, sir; I mean since I have had charge of the tank-wagon service there. Of course I don't know anything about the prices before that.

Q. On the other hand, it is claimed by the Standard Oil Company that every price cut that there was in that field was initiated by the National, as between the National and the Standard or any of the companies owned by the Standard. Can you give us any instances of price cuts that have come within your personal knowledge made by the National Oil Company in the Norfolk field?—A. Yes; Mrs. Mendelsohn, Pearl street, Portsmouth; the driver asked me to call on her.

Mr. KELLOGG. When?

WITNESS. The first part of 1906—about March, 1906. Our driver asked me to call on her, informing me that she claimed that——

Q. Do not tell what the driver told you, but go ahead and tell what you did.—A. The driver asked me to call on her. I called on Mrs.

Mendelsohn in her absence. Her daughter was there and through my request showed me a ticket showing a sale of gasoline from the
9086 National Oil Company at a half cent below the prevailing market. I secured the ticket and turned it over to Mr. Hill, our special agent, with the report.

Q. Then what did you do in that instance?—A. I did not do anything. I never sold the woman since, although she was our customer.

Q. You have never been able to sell her since?—A. No, sir; never have been able to sell her since.

Q. Do you know a man by the name of Lubschutz, at 300 Highland avenue, Norfolk?—A. Yes, sir.

Q. Do you know of any case of price cutting by the National Oil Company in connection with his business?—A. The cut there was by giving a 30-gallon tank to Lubschutz.

Q. Who gave gave him the 30-gallon tank?—A. The National Oil Company.

Q. When was that?—A. That was about, I should say, six months ago, not longer than that.

Q. As recently as that?—A. Yes, sir.

Q. Have you any idea of the value of the 30-gallon tank?—A. $3.25, I think, for the gasoline tank.

Q. Did you lose that business——A. Yes, sir.

Q. By reason of the gift of that tank?—A. We have not sold him since. We did up to that time. Pardon me, Mr. Rosenthal, I have got the wrong man there. I was speaking of Mr. Garfield. Lubschutz's was a 5-gallon can.

Q. Lubschutz's was only a 5-gallon can?—A. A 5-gallon can; yes, sir. Garfield's was the 30-gallon tank.

Q. With the exception of the size of the can do you wish your testimony to stand as you have given it in connection with
9087 Mr. Lubschutz?—A. Yes, sir—and with the exception of the price of the can.

Q. Did you get any request from Lubschutz for the gift of a can?—A. I did. Lubschutz requested the driver first, and the driver asked me to call on him, which I did, and he made the same request of me. I told him that I could not give him a can.

Q. You refused to give him a can?—A. Yes, sir. He said he could get one from the National Oil Company, and the next time I saw him he had gotten one from the National Oil Company.

Q. And since then you have never gotten any trade from him?—A. We have never sold him since then; no, sir.

Q. Do you know a man by the name of Lavitt, at Cumberland and Pugh streets, Norfolk, Virginia?—A. Yes, sir.

Q. Do you know of any instance of going under the market there by the National Oil Company?—A. That is simply from the driver's report. I have never been able to see Mr. Lavitt. I think I have the original report, I don't know.

Q. Was Lavitt a customer of the Standard?—A. Yes, sir.

Q. And is he now?—A. No, sir.

Q. When was his trade lost?—A. About six months ago.

Q. And who has his trade now?—A. The National Oil Company, sir.

Q. And your driver's report indicates what?

Mr. KELLOGG. That is objected to as incompetent.

A. Indicates that he is getting his oil at a cheaper price.

Q. From the National?—A. Yes, sir.

Q. Do you know G. Vita, who was on the Brambleton route?—A. Yes, sir.

9088 Mr. KELLOGG. It is agreed that the Government may object to all secondary evidence of the reports of merchants, tank-wagon drivers, and others as to cutting prices, where the witness does not state of his own knowledge, without repeating the objection to each question. This is for the sake of expediting the taking of testimony.

The EXAMINER. Haven't you that right under the rule, anyway, to object to the testimony when it is offered in court? Haven't you that right under the rule?

Mr. KELLOGG. I think so; yes.

The EXAMINER. Do you have to make your objection at the time the question is asked?

Mr. KELLOGG. No.

Mr. ROSENTHAL. I have not been able to find any clear statement of that yet.

The EXAMINER. That is my understanding.

Mr. ROSENTHAL. We have all proceeded on the opposite theory.

The EXAMINER. My understanding is, that it is only with regard to the form of the question that the objection should be taken at the time.

Mr. ROSENTHAL. That may be, and we are all of that opinion, and yet, as a matter of precaution, we have all taken the precaution to take the objection.

Mr. KELLOGG. There is no use repeating the objection every time.

Mr. ROSENTHAL. Oh, no; not at all.

9089 Q. G. Vita, on the Brambleton route?

Mr. KELLOGG. What place?

WITNESS. Norfolk.

Q. Is there any instance of price-cutting there by the National Oil Company?—A. In the case of G. Vita, he had two or three 5-gallon cans in which he was receiving his gasoline. There is an ordinance in Norfolk prohibiting them from carrying a great storage of gasoline, and, as a rule, they use 5-gallon cans. Our driver, Hamill, could not sell him, but living near his store, bought some of his groceries from him, and insisted on his trade. Vita gave him a part of his business at first, and the National took these cans away from him, and we have been selling him ever since. The cans belonged to the National Oil Company, and he had been getting gasoline from them in these cans up to this time. He bought cans from us when he took them, and paid for them.

Q. Do you know a family by the name of Tabets?—A. There is a Syrian family in Norfolk by that name—Tabet.

Q. Have you any instance of price-cutting by the National there?—A. Yes, sir.

Q. Please tell us about it.—A. The National sells Tabet oil at half a cent below the market, making out the ticket at the market price—half a cent below.

Q. M. Faverman, corner of Bermuda and Chapel streets.—A. Faverman was offered 5 gallons for every 50 that he bought from the National Oil Company.

Mr. KELLOGG. Do you state that of your own knowledge, or
9090 from what he told you?

Q. Do you mean 5 gallons free?—A. 5 gallons free.

Q. For every 50 that he bought of the National?—A. Yes, sir.

Q. Do you know a man by the name of George Kroeder?—A. Yes, sir; I know George Kroder—K-r-o-d-e-r.

Q. Was he ever in the employ of the Standard Oil Company?—A. Yes, sir.

Q. When?—A. Up to about less than a year ago.

Q. In what capacity?—A. Tank-wagon driver.

Q. Was he a popular tank-wagon driver there?—A. The most popular we had, sir; I think the most popular in town.

Q. Where—in Norfolk?—A. Yes, sir; in Norfolk.

Q. How long was he in your employ?—A. I think for nine years, I have heard him say—ever since I have been with the company, anyhow.

Q. Until about a year ago?—A. Yes, sir.

Q. Who employed him then?—A. The National Oil Company.

Q. Do you know whether they employed him at an advanced wage?—A. Yes, sir.

Q. Is he in their employ now?—A. Yes, sir; he was when I left Norfolk.

Q. Have you a report in your possession, under date of December 3, 1906, which Kroder made?—A. I have not. That report was turned over to the office.

Q. You mean the original report?—A. The original report; yes, sir.

9091 Q. Turned over to what office?—A. To the Norfolk office; to Mr. Hill, special agent at Norfolk.

Q. Have you a copy of that report?—A. No, sir.

Q. I will pass that for the time being, then, until we get the report. Do you know of any instances of price cutting in connection with a man by the name of A. Levinson, 193 St. Paul street, Norfolk?—A. Yes, sir.

Q. Tell us about that, please.—A. The National gave him 3 to 5 gallons for every 20 gallons he bought.

Q. When was that?—A. That was about a year ago.

Q. And do you know of any case of price cutting in connection with Jacob Garfield, at 301 Highland avenue?—A. Jacob Garfield is the party that I was speaking of, in reference to the 30-gallon tank.

Q. The National gave him a 30-gallon tank?—A. Yes, sir.

Q. Free?—A. Free.

Q. Had he been a customer of the Standard?—A. Yes, sir.

Q. Had Levinson been a customer of the Standard?—A. Yes, sir.

Q. Is he now?—A. No, sir. We have sold him 10 gallons, I think, since that happened.

Q. That is, since they began giving him 3 to 5 gallons extra?—A. Yes, sir.

Q. With every 20 gallons of oil delivered?—A. Yes, sir.

Q. And have you lost Garfield's business since the gift of the 30-gallon tank?—A. We sell him a very small quantity, at long intervals.

Q. Do you know Mr. Finlayson, the president of the Na-
9092 tional?—A. Yes, sir.

Q. Have you met him frequently?—A. Not frequently. I have met him in the office of the Standard Oil Company, some years ago, and know him when I see him on the street.

Q. Does he come to Norfolk frequently?—A. He lives in Norfolk, I think. He is there most of the time, at any rate.

Q. Finlayson testified that if these things were done which you have just testified to, namely, price cutting and giving away oil, and giving away tanks, neither he nor any of the officials of the National Oil Company had any knowledge of it. What do you know about that?—A. I know one instance, sir, where an arrangement was made through their office, or by one of their men from their office, calling on the Sawyer Grocery Company and making an arrangement by which they gave the Sawyer Grocery Company 5 gallons on every 50 they put in.

Q. What do you mean by one of the men from their office?—A. It was not a tank-wagon driver. It was a representative, a solicitor, from their office. Who it was I don't know.

Q. Have your tank-wagon drivers any authority to depart from the price?—A. None whatever.

Q. Or to make a gift or do anything of that kind?—A. None whatever; no, sir.

Q. Do you know whether theirs have?—A. I do not.

Q. In the conduct of your business at Norfolk, have you ever departed from the market price?—A. Never.

Q. Did you ever initiate a cut of any kind?—A. Never.

Q. Or know of one being initiated by the Standard?—A. No, sir.

9093 Q. Did you ever follow, or cause to be followed, any of your competitors' wagons while they were on their routes?—A. No, sir.

Q. Generally speaking, what do you say as to whether competition in your field has increased or diminished since you have been connected with the Standard, during the eight years you have been there?—A. It has increased considerably.

Cross-examination by Mr. KELLOGG:

Q. When did you commence working for the Standard in Norfolk?—A. About nine years ago—eight or nine years ago.

Q. About 1899?—A. About 1900.

Q. When did the National commence business there?—A. They were in business when I went with the Standard. I could not tell you.

Q. When you went with the Standard they were buying their oil of the Standard Oil Company, weren't they?—A. Some, I don't know how much.

Q. Afterward, about 1902, they commenced to buy their oil from outside parties, didn't they?—A. That I could not tell you.

Q. They did not buy any more from the Standard, did they?—A. I could not tell you that.

Q. Weren't you in the office?—A. I was in the office; yes.

Q. Did you know that they bought any of the Standard after 1902?—A. Yes, they have.

Q. When?—A. Since 1902.

Q. Did not buy much after 1902, did they?—A. I could not tell you that.

9094 Q. How did you know they bought oil from the Standard?—A. Because I remember making charges.

Q. About 1902 they stopped buying oil, didn't they?—A. I think they have bought some since then, sir.

Q. When?—A. I think the National Oil Company has bought from the Standard in the last two years.

Q. Well, generally speaking, for some years after 1902 they were buying from independents, weren't they?—A. That I can't answer, sir.

Q. Shortly after Mr. Finlayson started in there, in about 1902, the Dixie Oil Works started in, too, didn't it?—A. I don't know a thing about the Dixie Oil Works, sir, except that on one occasion I saw one of their wagons, I think, only once in my life.

Q. They were selling oil in Norfolk and Portsmouth, were they not, after 1902?—A. I could not tell you, sir.

Q. Didn't you ever hear of it?—A. I have heard of it.

Q. You have heard that they were, haven't you?—A. I have heard that they were selling oil, but I have never seen but one wagon in my life, and didn't know at the time.

Q. You don't know whether the Dixie was cutting the price or whether it was not?—A. No, sir; I was in the office and would not know anything about that.

Q. You don't know anything about price cutting except since 1906?—A. No, sir.

Q. During the years 1902 and along there, you know nothing about it?—A. Nothing at all, sir.

9095 Q. Since 1906 what companies have been doing business in Norfolk?—A. The National Oil Company and the Standard Oil Company.

Q. Is that all?—A. That is all the oil companies; yes, sir.

Q. The Home Safety?—A. The Home Safety Delivery; yes, sir.

Q. And the Dixie?—A. No, sir.

Q. The Dixie has gone out of business?—A. Yes, sir.

Q. What peddlers did the Standard sell to after 1906?—A. The Home Safety Oil Delivery in Norfolk, J. R. McCumber and E. L. Price in Portsmouth.

Q. You had nothing to do with the management of these peddling wagons, did you?—A. Nothing whatever, sir.

Q. You don't know anything about what price they made?—A. No, sir.

Q. You don't know whether they cut the National oil prices or not?—A. No, sir.

Q. The Standard were selling them their oil, were they?—A. The Standard were selling the Home Safety and J. R. McCumber. E. L. Price was buying half his oil from the Standard, the other half from the National.

Q. You had nothing to do with the Home Safety?—A. No, sir.

Q. You don't know what prices they made?—A. No, sir.

Q. These parties to whom gallon cans and extra gallons of oil were given, all you know about it is what the merchants reported to you?—A. Yes, sir.

Q. You do not have any other knowledge about it?—A. There is no way that I could stand and see that done, you know.

9096 Q. You don't doubt but what the merchants also reported the same thing to the National Oil Company, do you?—A. Why, yes; I do doubt it.

Mr. ROSENTHAL. About what?

Q. About the Dixie and the Home Safety and these peddlers.—A. About the Dixie—I don't know a thing about that. That was before my time.

Q. About the Standard?—A. I don't think they did. They had no occasion to.

Q. Who is your manager?—A. C. D. Hill.

Q. He had general charge?—A. Yes, sir.

Q. You could not make any prices?—A. No, sir.

Q. You don't know what deals he had with the merchants or anything about that?—A. I know that Mr. Hill never came in contact with the merchants at all.

Q. You know he never saw the merchants?—A. Unless he went in the store to buy something.

Q. You don't know anything about whom he saw and what arrangements he made, do you?—A. I do in a general way. If he had made an arrangement, I would have known it.

Q. Did you have charge of all the sales?—A. From the wholesale wagons, since 1906; yes, sir.

Q. You were just simply superintendent of wholesale wagons?—A. Yes, sir.

Q. But you did not have charge of making the prices?—A. No, sir.

Q. You don't know what deals Mr. Hill might have had with the wholesale merchants?—A. Let we explain that. When the

9097 driver comes in at night, I check him up, and I would have nec-

essarily known of any price that he had made other than the regular price.

Q. If Mr. Hill afterwards settled with the merchants, at the end of the month, on some other basis, you would not know anything about it, would you?—A. I think I would, sir.

Q. Did he do everything through you? Did not Mr. Hill do any business except through you?—A. Not with my customers; no, sir.

Q. Never did any business at all?—A. Not with those tank-wagon customers, he did not.

9098 ROBERT L. PURSE, called on behalf of the defendants, being duly sworn, testified as follows:

Direct examination by Mr. ROSENTHAL:

Q. What is your name?—A. R. L. Purse.

Q. Where do you live, Mr. Purse?—A. Seaford, Delaware.

Q. How long have you lived there?—A. I have been living there for about 26 years.

Q. And what is your business?—A. I am in the confectionery, fruit, and ice cream business.

Q. Were you ever in the oil business at Seaford?—A. Yes, sir.

Q. When?—A. I began in the oil business in March, 1903.

Q. And remained in that business for how long?—A. Until July 9, 1907.

Q. What was the character of your business there? What kind of business were you doing?—A. I did the retail business generally; sometimes a little wholesale business.

Q. How were you selling your oil?—A. Selling it at retail and wholesale.

Q. By retail you mean to the consumers?—A. To the consumers; yes, sir.

Q. And at wholesale to the storekeepers?—A. To the storekeepers; yes, sir.

Q. What other towns besides Seaford did you do business in?—A. I did some business in Federalsburg, Maryland.

Q. At Laurel?—A. No, sir. I did business in Oak Grove, Reliance, Galestown, and Woodland.

9099 Q. Who preceded you in your business?—A. What do you mean—before me?

Q. Yes.—A. Artie Purse, my brother.

Q. You took over the business from him, did you?—A. Yes, sir; after he left Seaford.

Q. Were you at all in touch with the business while he owned it and controlled it?—A. Very little.

Q. From whom did you buy your oil at that time?—A. I commenced buying from the Atlantic Refining Company.

Q. And at what price did you sell?—A. I generally sold to the consumers at the store price. Sometimes I would get a cent or two cents above the store price, by delivering it around from my wagon, from house to house.

Q. Your brother had sold at Seaford, at Laurel, and at Bridgeville, I think, had he not?—A. Yes, sir.

Q. Did you drop any of those places and take up any other places?—A. I dropped Laurel and Bridgeville.

Q. And what other places did you take up?—A. I took up Woodland, Galestown, Oak Grove, and Reliance, and later I took up Federalsburg, Maryland.

Q. What competition did you meet with there?—A. Competition with the Atlantic Refining Company and the Red "C."

Q. With the Atlantic Refining Company in your wholesale business?—A. Yes, sir; they were wholesalers.

Q. And the Red "C" Oil Company, in what connection or direction?—A. They were in the wholesale business, delivered the oil in barrels, and occasionally they would sell a barrel direct
9100 to consumers, by putting a faucet in the end of the barrel and delivering the oil to them in that way.

Q. Do you know of any instances of price cutting on the part of the Red "C?"—A. Yes; I know several times that they cut the price in Seaford.

Q. As against whom?—A. As against the Atlantic Refining Company and as against me. I can't state just when, but I know of several different times that they did do it.

Q. In the early years of your conduct of that business?—A. Yes, sir.

Q. 1903?—A. Commencing right on from the time I took charge of the business, and did the same thing right straight through until I went out of business.

Q. Who always initiated the price-cutting in your field?—A. The Red "C," always.

Q. As between you, the Atlantic, and the Red "C?"—A. The Red "C," always.

Q. I direct your attention particularly to the situation at Federalsburg, Maryland. Will you please tell us about that?—A. Why, it was along in about October, 1905—I think it was October, 1905. The Red "C" shipped their oil to Seaford in car lots, in barrels; and I always took particular notice to whom they were selling, and one day I saw a big load of oil going out of Seaford in a big wagon with four horses—oil in barrels. I judge they had somewhere around the neighborhood of 12 barrels in the load, and I made inquiries where the oil was going, and I found out it was going to Federalsburg, Maryland.

9101 Q. Was that while you were in business for yourself?—A. Yes, sir. So they did that thing several times. So I went over to Federalsburg to see what was the trouble, and came to find out that they had made a cut over in Federalsburg against the Standard Oil Company that delivered oil there from Hurlock, Maryland, in tank wagons. I understand they had made a cut of 2 cents on the Standard's price there, and practically they had gotten every store and were selling every store in Federalsburg, and they made a price

in Federalsburg of 9 cents in barrels; and I think the price—I am positive that the price from the Hurlock wagon at that time was 11 cents.

Q. The Standard's tank-wagon price?—A. Yes; the Standard tank wagon price was 11 cents. Our price in Seaford at that time on wholesale oil was 8 cents. We were generally about a cent or 2 cents under the Maryland price. What caused it or why it was, I don't know. So they were putting out quite a lot of oil. So I went over to Federalsburg, Maryland, with my wagon, and I met their price at 9 cents from the tank wagon, and they were putting it out at 9. I commenced going over there and made my price 9, and after a while, after talking of the losses in barrels and the gallons, why, I got every store in the town, and I guess I sold every store in the town along for about six months, and the Red "C" made a price there of 7 cents; cut me 2 cents. So I made several trips there after that, but I lost all of my trade, and I had to cut out Federalsburg entirely.

Q. So the Red "C," by cutting the price 2 cents a gallon,
9102 drove you out of that town?—A. Yes, sir; they drove me entirely out.

Q. You were then conducting the business for yourself?—A. For myself.

Q. How long did you continue buying from the Atlantic Refining Company?—A. I continued buying from them, I think it was somewheres in the neighborhood of November, 1906.

Q. Where did you then buy your oil?—A. I bought my oil from the Pure Oil Company, of Wilmington.

Q. And your gasoline?—A. The same place.

Q. Why did you make the change?—A. Because they offered me a better price.

Q. A better price than the Standard?—A. Yes, sir.

Q. Or the Atlantic. What had you been paying for your gasoline from the Atlantic?—A. At that time I was paying them 15½ cents.

Q. And what did the Pure Oil Company offer you gasoline for at that time?—A. They offered me gasoline at that time at 13½ cents, and a dollar for the return of the barrel.

Q. At how much?—A. 13½.

Q. And a dollar for the return of the barrel?—A. For the return of the barrel. That brought it down to a little over 11½.

Q. As against what price that the Atlantic had been charging?—A. 15½.

Q. Did you buy thereafter of the Pure Oil Company?—A. Yes, sir.

Q. On account of that cut in the price?—A. Yes, sir.

9103 Q. Was there any cut in petroleum oil—kerosene oil?—A. Why, yes.

Q. What was the cut made there by the Pure Oil Company?—A. They gave me a cent less on oil than what I was buying it for.

Q. Did you thereafter buy your kerosene oil from the Pure Oil Company?—A. Yes; bought both from them.

Q. And by reason of that cut?—A. Yes, sir.

Q. How long did you continue to buy from the Pure Oil Company?—A. I bought from them up until I went out of business.

Q. And that was when?—A. That was July 9, 1907.

Cross-examination by Mr. KELLOGG:

Q. You were doing business at Seaford and these other towns you mentioned?—A. Yes, sir.

Q. You were not doing business at Bridgeville, Maryland?—A. Bridgeville, Delaware; no.

Q. Where was it you saw the Red "C" oil wagon going out with a load of oil?—A. Going out of Seaford.

Q. Where to?—A. Going to Federalsburg.

Q. When you saw that wagon going out, you were not then selling oil in Federalsburg?—A. No, sir.

Q. You never had been?—A. Never had been.

Q. And you had curiosity to know where the Red "C" was going with the oil?—A. Yes, sir.

Q. And you followed them over?—A. No, sir; I did not.

Q. You went over there?—A. I went over afterwards. I inquired where they were going with the oil.

9104 Q. You were not doing business in that town?—A. In Federalsburg, not at that time; no, sir.

Q. Never had been?—A. No, sir.

Q. The Standard Oil had been?—A. Yes, sir.

Q. Did they suggest to you to go over there?—A. No, sir.

Q. Did anybody suggest to you to go over there?—A. No, sir.

Q. Did you report it to the Standard?—A. No, sir.

Q. Or to the Atlantic Refining Company?—A. No, sir.

Q. You never reported it to anybody?—A. I might have mentioned it to the man that I bought my oil from, and that is about all.

Q. The Atlantic Refining Company?—A. Yes, sir.

Q. That was a Standard concern?—A. Why, I suppose so.

Q. You knew it was, didn't you?—A. I have heard it was.

Q. So you went over to Federalsburg and found out what the Red "C" were doing?—A. Yes, sir.

Q. Out of your own territory, where you never had sold?—A. Never had sold.

Q. And you found that the Red "C" was selling oil there at 9 cents, in barrels?—A. Yes, sir.

Q. And that Standard was selling at what price?—A. I think their price was 11 cents.

Q. What do you know about it?—A. What do I know about what?

Q. About their price there.—A. I heard—I understand it was 11 cents.

Q. You inquired?—A. The storekeeper told me; yes, sir.

Q. Eleven cents, delivered in tanks?—A. Yes, sir.

9105 Q. Now, the 9 cents was in barrels, was it?—A. Yes, sir.

Q. And that is just about the difference between barrel oil, sold in barrels, and oil delivered in tank wagons, isn't it?—A. They pumped the oil out into their tanks; did not deliver it in barrels.

Q. How do you know that?—A. Because I saw them pump it out into the tanks and haul the barrel away.

Q. All you know about the price is what they told you over there?—A. Yes, sir; what they told me.

Q. You immediately started in and cut the Red "C's" price?—A. No, sir; I did not.

Q. You sold at 9 cents in tanks?—A. I met their price.

Q. Don't you know that a man will buy oil in tank-wagon delivery at the same price in preference to barreled oil at the same price? You know that, don't you?—A. How is that?

Q. You know that a man will buy oil delivered by tank wagon at the same price in preference to barreled oil at the same price?—A. Generally he will.

Q. So you came down and made a little under the Red "C's" price?—A. No; I met their price.

Q. You gave them an advantage?—A. No; I did not.

Q. Wasn't it an advantage to buy from the tank wagon?—A. Well, yes; some.

Q. Then they got that advantage, didn't they?—A. Yes; a little.

Q. Now, what business had you over there?—A. What business did I do?

Q. What business had you over there—just simply to go after the Red "C?"—A. No; I went over there to sell all the

9106 oil I could.

Q. What did you mean by saying when the Red "C" got your trade away from you at Federalsburg?—A. They did not get any trade away from me.

Q. You tried to get theirs?—A. Certainly. I tried to sell a gallon wherever I could, because I was in it for all there was in it.

Q. Certainly.—A. I was in it for all I could get out of it.

Q. What were the prices in Seaford at the same time?—A. At that time in Seaford?

Q. Yes.—A. It was 8 cents wholesale, I think.

Q. And was there any reason why they should be any cheaper in Seaford than in Federalsburg?—A. I don't see why it was, but it would run—Delaware was under the Atlantic Refining Company and Maryland under the Standard, and why the difference was in the price I could not tell and don't know.

Q. You were not in the wholesale business, were you?—A. I was principally doing a retail business, but sold all the wholesale that I could.

Q. From 1903 to 1907 what companies were selling in Seaford and these other towns?—A. The Red "C" and the Atlantic Refinery.

Q. Any peddlers?—A. No, I don't know of any.

Q. No peddlers?—A. No peddlers.

Q. No one else at all?—A. No one else that I know of.

Q. Did the Paragon Oil Company ever sell there?—A. They had sold there, I understood, years before I went in business.

Q. And the Home Safety Oil?—A. No.

9107 Q. Did the Dixie?—A. No, sir.

Q. And no peddler. Now, you say that in Seaford the Red "C" cut the price?—A. Yes, sir.

Q. What price did they make?—A. I don't know. They generally cut it a cent under or half a cent under the Atlantic Refining Company.

Q. Can you name a particular merchant, and the time when they cut a cent?—A. Yes, sir.

Q. When?—A. I know of Mr. Wainwright there.

Q. When?—A. It was along about two months before I went out of business.

Q. That was 1907?—A. Yes, sir, 1907.

Q. That is the only instance you can give?—A. I know that I was selling to Wainwright at that time, and they made him a cut of half a cent on a gallon, and took him away from me, and I did not sell him any more.

Q. Can you give any others?—A. Not of my customers that I sold. I sold very few there in the wholesale business.

Q. Can you name any instances in these other towns at all?—A. Only in Federalsburg.

Mr. ROSENTHAL. You are talking now about the wholesale business?

WITNESS. Yes, sir.

Mr. ROSENTHAL. And your last two answers were limited to cuts in the wholesale business?

WITNESS. Yes, sir.

Q. Can you name any instances of cuts to retailers?—A. Yes, sir.

9108 Q. Where?—A. A merchant in my own town.

Q. When?—A. At different times.

Q. Name one, and the price the Red "C" made.—A. Mr. Wainwright.

Q. When?—A. He cut two cents.

Q. When?—A. Just after he commenced dealing with the Red "C."

Q. When was that?—A. That was in 1907, about two months before I went out of business.

Q. The only ones you can mention were in 1907, just before you went out of business?—A. No; they did it several times, but I can't recall just exactly at what time. There were other merchants that cut the price from the time I started in business up until I went out of business at different times.

Q. They were retailers?—A. Yes, sir; they were retail merchants.

Q. They sold at 2 cents less than your wholesale price?—A. No, sir; 2 cents less than my retail price.

Q. What price were you getting?—A. At that time?

Q. Yes.—A. I think I was getting 12 cents for oil.

Q. When was that?—A. That was when I went out of business—1907.

Q. You always come back to the time when you went out of business. I want you to name some other time.—A. The prices changed from time to time.

Q. Name one other time when the Red "C" cut any of your customers. Name the customer and the price, will you?—A. I know of Mr. Hearn there at Seaford.

9109 Q. When?—A. I think that was somewhere around the neighborhood of 1905,

Q. Was it 1905, '6 or '7?—A. Somewhere around that; I won't say just positively when.

Q. You don't know?—A. No.

Q. What was the price?—A. He made a price at one time—I know at one time I was selling at 12 cents and he made the price 11.

Q. 11 cents?—A. Yes, sir.

Q. Delivered in barrels?—A. I am talking about retail.

Q. How do you know he made the price 11?—A. Because I know he did. The people I was selling to told me so—told me that they could buy oil for 11 cents.

Q. Can you name any other instance?—A. I can not; no, sir.

9110 JOHN W. DULING, called on behalf of defendants, being duly sworn, testified as follows:

Direct examination by Mr. ROSENTHAL:

Q. What is your full name?—A. J. W. Duling.

Q. What does the J. stand for?—A. John.

Q. John W. Duling?—A. Yes, sir.

Q. Where do you live, Mr. Duling?—A. At Clifton Forge.

Q. And where is Clifton Forge?—A. It is in Allegheny County, Virginia, near the western border of the State, bordering on West Virginia.

Q. How long have you lived there?—A. About 12 years—12 years this month.

Q. What is your business?—A. I am a general salesman of the Standard Oil Company.

Q. How long have you been a general salesman?—A. About five years.

Q. Stationed at Clifton Forge?—A. At Clifton Forge; yes, sir—that is where I live.

Q. And prior to that time, what was your business?—A. I was manager of the substation at Clifton Forge.

Q. Of the Standard Oil Company?—A. Yes, sir.

Q. For how many years?—A. For about six years.

Q. How old a man are you?—A. I am 47.

Q. Your field is in the western part of Virginia, is it?—A. Yes, sir.

9111 Q. And where are all of your customers located?—A. In the several counties of Virginia in which I travel.

Q. You travel now from Clifton Forge, do you?—A. Yes, sir.

Q. And to whom do you sell?—A. I sell to merchants. Well, now, are you just asking about the refined oil business, or the general line?

Q. Your business as general salesman.—A. General salesman; yes, sir. I sell to all merchants, and to manufacturers and mills, and to anyone that uses lubricating oils.

Q. What do you sell?—A. I sell all the products of the Standard Oil Company, and stoves and lamps and petroleum products.

Q. You sell lubricating oil and refined oil and gasoline?—A. Yes, sir.

Q. Stoves and lamps?—A. Stoves and lamps.

Q. Do you come in contact with the consumer at all?—A. No, sir.

Q. Where do you get your prices from?—A. From the Richmond office.

Q. From the Richmond office?—A. From the Richmond office for the last two years.

Q. Richmond, Virginia?—A. Richmond, Virginia; yes, sir.

Q. You say for the last two years you have gotten your prices from that office?—A. For the last two years; yes, sir.

Q. And where before that?—A. From the Charleston office.

Q. Do you mean that those prices come to you direct as salesman or do they come to the office at Clifton Forge?—A. No, sir; they are addressed to me.

Q. Addressed to you?—A. Yes, sir, personally.

9112 Q. You are not in charge of the Clifton Forge Station now?—A. No, sir.

Q. That simply happens to be your home?—A. Yes, sir.

Q. And you travel out from there?—A. Yes, sir.

Q. That is right, is it not?—A. Yes, sir.

Q. In what form do you get those prices from Richmond now, and did you formerly get them from Charleston? In what shape do the prices come to you?—A. In typewritten letters.

Q. Giving you the price lists?—A. Yes, sir.

Q. Are you now, or during the five years that you have been general salesman in that territory, have you been authorized to change those prices of your own accord?—A. No, sir.

Q. Are you ever permitted, or have you ever been permitted, to exercise your own judgment in the making of the price?—A. No, sir.

Q. Are you bound to follow the price given to you by your main office?—A. Yes, sir.

Q. And that has been true, has it, ever since you have been in the employ of the Standard?—A. Ever since I have been in the employ of the Standard Oil Company.

Q. Please state whether, as a matter of fact, you always have adhered to those prices?—A. Invariably so; yes, sir.

Q. During the time that you have been connected with the Standard as general salesman what competition have you met with in your field, say in lubricating oils?—A. Do you mean the various companies.

Q. Yes.—A. There are quite a number.

9113 Q. Let me have them, please.—A. The W. C. Robinson & Sons Company, of Baltimore; the Crown Oil & Wax Works, or Company, I don't remember which——

Q. Of Baltimore?—A. Of Baltimore; the Red C Oil Company, of Baltimore——

Q. Wait a minute until I check these up. The Red C Oil Company, of Baltimore?—A. Yes, sir; the Union Petroleum Company, of Philadelphia; the Gulf Refining Company, of Philadelphia, and the Valvoline Oil Company, or Leonard & Ellis.

Q. Of Philadelphia?—A. Of Philadelphia; the Commercial Oil Company, of Cleveland, Ohio; the Lincoln Oil Company, of Cleveland, Ohio.

Q. The Havemeyer Oil Company, of New York?—A. The Havemeyer, of New York; yes, sir.

Q. Harwood Brothers?—A. Harwood Brothers, of Richmond, Virginia.

Q. The Fairfax Refining Company, of Cleveland?—A. Yes, sir.

Q. The Wolverine Oil Company, of Cincinnati?—A. No; I never came in any competition with them in the lubricating business.

Q. The Independent Oil Company, of Mansfield?—A. The Independent Oil Company, of Mansfield, Ohio; yes, sir.

Q. The Pioneer Oil Company, of Cleveland?—A. Of Cleveland; yes, sir.

Q. The Bolton Oil Company, of Cleveland?—A. Yes, sir.

Q. The Empire Oil Company, of Cleveland?—A. Yes, sir.

Q. Now, these companies that you have named, have they all been active competitors of yours in the sale of lubricating oil through the field in which you travel?—A. Yes, sir.

9114 Q. And during the five years that you have been traveling there?—A. Yes, sir.

Q. It has been charged by some of these concerns that the Standard Oil Company initiates price cuts in order to drive these other concerns out of the market down there. Please state what your experience has been in that regard.

Mr. KELLOGG. Are you talking about refined oil?

Mr. ROSENTHAL. No, sir; lubricating oil.

WITNESS. Lubricating oil. They always cut the prices, always cut our prices.

Q. Who do you mean by "they" always cut the prices?—A. Any of them, with one exception.

Q. What do you mean by "any of them"—these companies you have named?—A. Any of these companies I have named, all of them.

Q. Did the Standard ever initiate a price cut?—A. No, sir; not through me.

Q. And do I understand you to say that every one of those concerns that you have named that competes with you in the sale of lubricating oil throughout your territory cuts prices, and always has, with one exception?—A. Yes, sir.

Q. What is that one exception?—A. That is Leonard & Ellis, of Philadelphia. I never knew of them cutting prices.

9115 Q. Can you give any instances specifically of such price cutting by these competitors? Take the Fairfax Refining Company, for example.—A. Yes, they sold oil last fall to a number of my customers at prices from 2 to 3 cents under my price, guaranteeing the oil to be as good or better, that is, in machine oils, gas-engine oils, and cylinder oils.

Q. Did you lose trade by reason of that?—A. Yes, sir.

Q. How about the Independent Oil Company, of Mansfield?—A The same conditions existed with them as with the Fairfax.

Q. In addition to the Independent Oil Company cutting prices, do you know of any other argument that that company used?—A. Yes. The salesman told the trade that the Standard Oil Company had driven him out of business at Mansfield, Ohio.

Q. And endeavored to create prejudice in that way?—A. Yes, sir, and in various other ways he tried to create prejudice.

Q. Do you find that salesmen connected with competitive concerns use arguments of that kind frequently?—A. Yes, sir; that is the way they usually made their sales.

Q. That way and cutting prices?—A. Yes, sir; enlisting the sympathy and arousing the prejudice of people against the Standard Oil Company.

Q. How about Harwood Bros.?—A. Harwood Bros., of Richmond, sold one of my customers; he took the business of one of my customers.

Q. At cut price, or otherwise?—A. At a cut price, yes, sir.

Q. Do you remember how much of a cut?—A. We were furnishing the Blue Ridge Light & Power Company, of Staunton. They

9116 were using 600-W cylinder oil and Renown engine oil. We had a contract with those people, and Harwood Bros. sold them cylinder oil at about 18 cents below our price, guaranteeing it to be as good as 600-W cylinder, and engine oil was 4 cents, I think, below our price. They secured the business.

Q. Did they make any guaranty as to the quality of the engine oil?—A. Yes, sir.

Q. As compared with yours?—A. Yes, sir.

Q. What was it?—A. They said it was just as good as ours.

Q. And made a cut of 4 cents?—A. Yes, sir; I think that was about 4 cents.

Q. 4 cents a gallon?—A. 4 cents a gallon; yes, sir.

Q. And therefore got the business?—A. Yes, sir; and still have it.

Q. Do you remember a cut made by Harwood Bros. to the Lombard Manufacturing Company, of Waynesboro, Virginia?—A. Yes, sir.

Q. How much of a cut was that?—A. That was 2 cents a gallon on a barrel of machine oil. We were furnishing them 4X machine oil at a price of 19 cents a gallon.

Q. What happened?—A. And they sold them a barrel of machine oil at 17 cents, guaranteeing it to be as good as the oil they were using.

Q. In addition to your lubricating oil business, what other kind of oil did you sell?—A. Refined oil.

Q. Who were your principal competitors in the sale of refined oil in your territory?—A. The Red "C" Oil Company, of Baltimore, and the Wilberine Oil Company, of Cincinnati.

9117 Q. Can you give me any instances of price-cutting in refined oil and gasoline by either one of these competitors in your territory, either an actual cut in price by lowering the price, or by giving away oil, or by making some other form of a gift?—A. Yes; the Red "C" Oil Company cut the prices at Staunton last fall on oil.

Q. How much?—A. They cut our price ¾ cent.

Q. Any other instances of cuts by the Red "C"?—A. Yes; at Craigsville, Virginia.

Mr. KELLOGG. When?

WITNESS. At Craigsville, Virginia, last winter, during the winter, they sold a customer of ours, Craig & Doyle. Our price f. o. b. Staunton on Aladdin oil was 12 cents a gallon, and they sold them oil branded Aurora Water White Oil at 11½ cents.

Q. Let me direct your attention specifically to a number of cases of price cutting or bribery. Do you know Mr. Key, the engineer of the W. W. Putnam Company Wagon Factory?—A. Yes, sir.

Q. Do you know whether he was ever offered a price by Leonard & Ellis in connection with an attempt on their part to sell oil?—A. Lubricating oil; yes, sir.

Q. What was that?—A. They offered him $5 a barrel for every barrel of oil that he could succeed in getting into the plant.

Q. Do you know of a case of a similar kind in connection with the Lowmoor Iron Company, at Lowmoor, Virginia?—A. Yes, sir.

Q. What was that case?—A. The assistant manager there caught the engineer receiving money from the representative of Leonard & Ellis.

Mr. KELLOGG. Do you know these facts, or is it simply what somebody told you?

9118 WITNESS. Mr. Cargill told me.

Q. Who is Mr. Cargill?—A. He is the assistant manager there.

Q. Of what company?—A. Of the Lowmoor Iron Company.

Mr. ROSENTHAL. After you gentlemen put in letters such as you did from Richmond yesterday an objection that anything is hearsay is a far cry.

Q. Do you know a man by the name of Metzel?—A. I know him when I see him; yes, sir.

Q. Who is he?—A. A representative of the Red "C" Oil Company.

Q. Do you know of any cut that he made to the Trade Supply Company, at Millboro, Virginia?—A. Yes, sir.

Q. How much of a cut was that?—A. It was a cut of half a cent on our price of oil and a freight allowance of 16 cents a barrel.

Q. When was that?—A. It seems to me that was in May or June of last year.

Mr. ROSENTHAL. Just about the time that he was in conference with the Government officials preparing himself as a witness for this case.

Mr. KELLOGG. Do you know when he was in conference with the Government officials?

WITNESS. No, sir.

Mr. ROSENTHAL. That is my statement, not the witness'.

Mr. KELLOGG. You had better be sworn if you want to testify.

Mr. ROSENTHAL. I will make that statement without fear of contradiction.

Mr. KELLOGG. It is like a good many of your statements.
9119 You make them without fear, but they are not true.

Mr. ROSENTHAL. But I notice that they are not contradicted.

Mr. KELLOGG. That is contradicted.

Q. Do you know of any instance in connection with W. D. Judy at Goshen, Virginia?—A. Yes.

Q. What was that?—A. Mr. Judy got a tank from the Red "C" Oil Company.

Q. A storage tank?—A. A 60-gallon storage tank by contracting or buying 10 barrels of oil, the tank to be his when he got the 10 barrels of oil.

Q. What was the value of the 60-gallon storage tank?—A. We got $4.50 for them.

Q. Did you lose his business by reason of that?—A. Yes, sir.

Q. And did you lose the business of the Trade Supply Company, of Millboro, by reason of the cut that they made there?—A. That is the reason they gave me; yes, sir.

Q. Now, I direct your attention to a number of merchants at Staunton, Virginia, that this same man Metzel sold in April or May, 1907—Kaylor Bros.—A. That should be Baylor Bros.

Q. J. F. Vorhees & Co., R. A. Fauver, J. A. Fauver & Company, J. B. Hoge, S. P. Mann, J. N. Anderson, J. H. Mathews, Spitler & Eagle, all of Staunton, Virginia. What cut did the Red "C" make there in illuminating oil?—A. Three-quarters of a cent per gallon.

Q. Under what price?—A. Under our tank-wagon price of 10½ cents.

Q. Did they get the business by reason of that cut?—
9120 A. Yes, sir.

Q. Do you know J. Gassman & Company, Lexington, Virginia?—A. Yes, sir.

Q. Did the Red "C" make any cut there in connection with the sale of paraffine oil?—A. Yes, sir.

Q. When was that?—A. That was last fall—the fall of 1907.

Q. That was just about the time he was testifying. What was that cut?—A. That was on paraffine oil. Our price f. o. b. Staunton was 16 cents.

Q. 17, wasn't it?—A. 16 cents f. o. b. Staunton, and the freight rate from Staunton was 16 or 18 cents per hundred—I don't just recall; 16 cents, I believe—and he sold them a barrel of oil at 15 cents.

Q. Making a cut of one cent and the freight?—A. Making a cut of 1 cent and freight; yes, sir.

Q. He sold a barrel of what?—A. A barrel of paraffine oil.

Q. F. o. b. Staunton?—A. No, sir; delivered in his store.

Q. Delivered in his store at 15?—A. Yes, sir, and guaranteed it——

Q. That was barrel against barrel, was it?—A. Yes, sir, and guaranteed it to be just as good as our oil or better, as he always did.

Q. Do you know T. T. Dickinson & Bro., of Buena Vista, Virginia?—A. Yes, sir.

Q. Had they been customers of yours?—A. Yes, sir; for a number of years.

Q. And can you give us any case of price cutting there by the Red "C?"—A. They had been buying Standard floor dressing from us.

9121 Mr. KELLOGG. When was that?

Q. This was in 1908, wasn't it?—A. 1908; yes, sir.

Q. The summer of 1908?—A. The summer of 1908; yes, sir.

Q. You mean this last summer?—A. This summer just past; yes, sir.

Q. That was after he had testified?—A. Yes, sir; I suppose.

Q. Now tell us about that.—A. Mr. Dickinson asked me the price on Standard floor dressing. I told him it was the usual price; there had been no change. He said he would like to buy from me, but he could not do it; that Mr. Metzel had offered him oil for 23 cents a gallon, delivered, guaranteeing it to be just as good as ours, which was 26 cents f. o. b. Baltimore.

Q. How much of a cut was that on your price?—A. It was 3 cents a gallon cut and the freight, which amounts to about 3 cents.

Q. A gallon?—A. Yes, sir.

Q. So that was a cut of about 6 cents a gallon?—A. Something like 6 cents a gallon.

Q. And made as late as the summer of 1908?—A. Yes, sir.

Q. After he had testified as a witness in this case. What can you say generally as to whether competition has increased or diminished in your field in connection with the products that you sell?—A. It has increased considerable. There are more different concerns working the territory.

Cross-examination by Mr. KELLOGG:

Q. Competition has increased? What years are you talking about?—A. Very noticeably in the last two or three years.

9122 Q. Since the Government started some investigation of the oil trade? Is that right?—A. I don't know anything about that; no, sir.

Q. You don't know anything about when these various witnesses testified that Mr. Rosenthal was talking about?

Mr. ROSENTHAL. Oh, I have only been talking about one. He was your star Washington witness.

Mr. KELLOGG. Who was that?

Mr. ROSENTHAL. Mr. Metzel.

Q. Now, Mr. Rosenthal said he testified last fall, a year ago. Do you know that?—A. Know that he testified?

Q. Yes.—A. Indirectly; yes, sir.

Q. You know indirectly that he testified last fall, a year ago, in this case?—A. Yes, sir.

Q. Who told you that—Mr. Rosenthal?—A. No, sir.

Q. Who did?—A. I saw it in the newspaper.

Q. You saw it in the newspapers a year ago this fall?—A. I don't remember about the date; no, sir.

Q. Well, you said last fall.—A. That I saw it; no, sir. I beg your pardon. I don't think I said that. If I did, I didn't mean to.

Q. When did you say it was?—A. I don't recall.

Q. You recall Mr. Rosenthal stating it was last fall, do you?—A. Oh, yes.

Q. Now, was it last fall that you saw it?—A. I expect I saw it last fall; possibly I saw it before.

Q. That is as near as you recollect it?—A. Yes, sir.

9123 Q. As a matter of fact, he testified in February, 1908; wasn't it?

Mr. ROSENTHAL. Well, that is not very far out of the way, Bro. Kellogg.

A. I couldn't say.

Mr. KELLOGG. That is as near as you usually get.

Mr. ROSENTHAL. That is close enough.

Mr. KELLOGG. Yes, for your purposes.

Q. Now, all you know about these price-cuts to these various parties is what your customers have told you?—A. I believe with one or two exceptions, yes.

Q. What are those exceptions?—A. J. Gassman & Son, Lexington, Virginia, showed me a bill.

Q. You were selling them what kind of oil?—A. Paraffine oil.

Q. At what price?—A. At 16 cents a gallon.

Q. What is paraffine oil?—A. It is a product of petroleum.

Q. You were selling that f. o. b. the cars at what place?—A. Staunton, Virginia.

Q. You shipped it from Staunton, did you?—A. Yes, sir.

Q. Where did the Red "C" ship from?—A. They have a warehouse in Lexington, Virginia.

Q. They delivered it right from their warehouse?—A. Yes.

Q. At 15 cents?—A. Yes.

Q. The same kind of oil?—A. He said so.

Q. Do you know whether it was or not?—A. No, sir.

Q. You don't know anything about it?—A. No, sir.

9124 Q. This cut at Staunton, Virginia, in April and May, 1907, all you know about that is what your customer told you?—A. Yes, sir.

Q. What price were you selling at?—A. 10¼ cents.

Q. And he sold at what?—A. At 9¼.

Q. He sold by barrels, didn't he?—A. He pumped it out of the barrels into the tanks.

Q. He shipped it in by barrels?—A. Yes, sir.

Q. And it was delivered to the customer in barrels?—A. No, sir; he delivered it in their tanks.

Q. It was pumped out of the barrels into tanks?—A. Yes; pumped out of the barrels into the tanks; yes, sir.

Q. And you were getting 10½?—A. 10¼.

Q. And he sold at what?—A. 9½.

Q. Your customers simply told you that?—A. Yes, sir.

Q. Where is Craigsville?—A. It is on the main line of the C. & O. Railway, 23 miles west of Staunton, Virginia, in Augusta County.

Q. You say he cut the price there ¾ cent?—A. No, sir; I don' think I said that.

Q. What did you say about that?—A. Half a cent.

Q. Half a cent?—A. Yes, sir.

Q. You were selling at 12 cents?—A. Yes, sir.

Q. Tank-wagon delivery?—A. No, sir.

Q. In barrels?—A. In barrels f. o. b. Staunton.

Q. What kind of oil were you selling?—A. Aladdin Security.

Q. What kind of oil did he sell?—A. It was branded "Aurora Water White."

Q. All you know about it is what your customer told you?—
9125 A. Surely; yes, sir.

Q. And all these other places except that one, all you know is what the customer told you?—A. Yes, sir.

Q. These cuts were all in 1907 and 1908?—A. I think so; yes.

Q. Now, don't you know that the Standard Oil Company sold oil in many places in Virginia as low as 5 and 6 cents a gallon, and 7 cents in various places?—A. No, sir.

Q. You don't know that?—A. No.

Q. Never heard of it, did you?—A. Yes; I have heard.

Q. How many years have you been traveling for them?—A. About five years.

Q. Since 1903?—A. I think it was in 1903.

Q. All in West Virginia?—A. In the western part of that State; yes, sir.

Q. What companies have been doing business there during that time—I mean the Standard's companies? Has the Dixie Oil Works been in your field?—A. No, sir; I never come in competition with the Dixie.

Q. Or the Paragon?—A. No, sir.

Q. Or the Home Safety?—A. No, sir.

Q. Are there any peddlers that the Standard sell to in your district?—A. Yes; there was a peddler at Clifton Forge.

Q. There had been very little competition in your district prior to two years ago in the sale of refined oil, hadn't there?—A. Oh, yes; I have had strong competition from the Red "C" ever since I have been there.

Q. At all places that you sell?—A. No, sir; only some points.

9126 Q. How many?—A. At every point along the Valley Division of the B. & O. Railway, and as far west as Millboro, Virginia.

Q. That is the only competition you have ever had until the last two years?—A. In refined oil, from the Red "C" Oil Company, yes, sir.

Q. There are all sorts of concerns selling lubricating oil around there?—A. Yes, sir.

Q. Agents and irresponsible fellows and all sorts of concerns?—A. I don't know anything about the responsibility, of course.

Q. There are a great many concerns selling lubricating oil?—A. Yes, sir.

9127 EDWARD E. EITEL, called on behalf of the defendants, being duly sworn, testified as follows:

Direct examination by Mr. ROSENTHAL:

Q. Your full name, please?—A. Edward E. Eitel.

Q. Where do you live?—A. Baltimore, Maryland.

Q. How long have you lived there?—A. Twenty-seven years.

Q. What is your age?—A. Twenty-seven.

Q. Born and lived all your life in Baltimore?—A. Yes, sir.

Q. What is your business?—A. General salesman of the Standard Oil Company.

Q. Located at Baltimore?—A. No, sir.

Q. Where?—A. In the northern part of Virginia.

Q. You mean that your territory is in the northern part of Virginia?—A. In the northern part of Virginia.

Q. And where is your place of employment by the Standard? Do you travel from the Baltimore office?—A. No, sir.

Q. From what office?—A. From the Richmond office.

Q. How long have you been engaged as a general salesman?—A. I came with the Richmond office April 1, 1906.

Q. And were you connected with the Standard Oil Company before that time?—A. Yes, sir.

Q. In what capacity?—A. As a salesman.

Q. General salesman?—A. Yes, sir.

Q. Under what branch?—A. Under the Baltimore branch.

Q. Traveling out of Baltimore?—A. Yes, sir.

Q. Reporting to the Baltimore office instead of to the Rich-

9128 mond office?—A. Yes, sir.

Q. Do you do any business in West Virginia also?—A. In Pendleton County, West Virginia, we do a barrel business. Harrisonburg, Virginia, is the closest railroad point for the merchants of Pendleton County.

Q. What percentage of the total business is done in that way?—A. I should say about one per cent, or a small portion of it.

Q. Do you sell refined oil and gasoline?—A. Yes, sir.

Q. To whom do you sell?—A. To merchants.

Q. How much of a territory have you? How many counties do you cover?—A. I couldn't tell you. There are a great many counties and portions of counties, etc.

Q. Do you sell other things besides refined oil and gasoline for the Standard?—A. Yes, sir.

Q. Where do you get your prices from?—A. From the Richmond office.

Q. In what way?—A. By letter.

Q. And how frequently?—A. At different intervals.

Q. How often do you get your refined oil and gasoline prices?—A. Whenever there is a change in the market.

Q. That comes from your superior officer at Richmond?—A. Yes, sir.

Q. What is his position?—A. Special agent.

Q. Special agent there?—A. Yes, sir.

Q. Do you ever change prices yourself?—A. No, sir.

Q. Have you any authority in that regard?—A. No, sir.

9129 Q. Are you in duty bound to make the price given you by the special agent at Richmond?—A. Yes, sir.

Q. And during the years that you have been connected with the company have you always done that?—A. Yes, sir.

Q. Have you ever departed in any way from the prices given you by him?—A. No, sir.

Q. In the lubricating business who are your principal competitors?—A. W. C. Robinson, Red "C" Oil Company, Leonard & Ellis, Zurn, Fairfax Refining Company, Sherwood Bros., Crescent Oil Company, and L. C. Carran was also a competitor.

Q. Harwood Bros.?—A. Harwood Bros.

Q. Have these people been in competition with you during all the five years you have been acting as general salesman in that territory?—A. I have not been acting as general salesman five years.

Q. Two years?—A. Yes, sir.

Q. You were general salesman traveling out from Baltimore prior to that time?—A. Yes, sir; only about six months before that, since August 11, 1905.

Q. You have certain market prices for your various products?—A. Yes, sir.

Q. Which you get in the way you have described?—A. Yes, sir.

Q. I direct your attention to the Fairfax Refining Company in connection with a sale at Bridgewater.—A. Yes, sir.

Q. To Snell & Early, castor machine oil.—A. Snell & Early, of Bridgewater.

Q. Tell us about that case.—A. We had been selling Snell & Early at Bridgewater castor machine oil at 14 cents a gallon, Baltimore.

9130 Q. Fourteen cents a gallon, Baltimore?—A. Yes, sir. And last fall the Fairfax Refining Company came to Bridgewater and sold Snell & Early that oil at 14 cents delivered, which made a cut in our price of about 3 cents a gallon.

Q. Did they get the business?—A. Yes, sir.

Q. How did they represent their oil, if you know, as comparing with yours in quality?—A. They represented it to be as good as our oil.

Q. Do you know John P. Burke, of Harrisonburg?—A. Yes, sir.

Q. Was there any cut made in connection with his business by the Fairfax Refining Company?—A. Yes; also sold him Castor machine oil at 14 cents delivered.

Q. Making a cut of how much?—A. 2¾ cents.

Q. Had he ever been a customer of yours?—A. Yes, sir.

Q. Had Snell & Early been a customer of yours?—A. Yes, sir.

Q. And did you lose both Snell & Early's and Burke's business by reason of the cut made by the Fairfax?—A. Yes, sir.

Q. Did you ever have the business of the Chesapeake Western Railroad?—A. Yes, sir; we had that business in 1906 and the early part of 1907.

Q. What became of it?—A. It went to the Red "C" Oil Company.

Q. Because of what?—A. They made them lower prices on oil represented to be as good as ours, and in July, I think about July 2, 1908, I called on Mr. Williamson, superintendent of the Chesapeake Western Railroad, with a view of renewing the contract for 1908. He looked our contract over and said, "Why, you can't get a
9131 contract on these prices," and, to use his own remark, he said the Red "C" Oil Company had cut the guts out of us in price. That is the remark he made.

Q. By reason of that cut they got the business?—A. They got the business; yes, sir.

Q. Do you know of any instances of price cutting in connection with the business of the Fredericksburg Spoke Works, by W. C. Robinson?—A. The Fredericksburg Spoke Works, we had their business, I think it was in 1906; W. C. Robinson went there and got the business away from us by representing the oil to be as good as our 600-W Cylinder oil, and sold it at about 20 cents less than we did; and so on engine oil, about a cent less.

Q. Did Robinson get the business by reason of that cut?—A. Yes, sir.

Q. Who have been your principal competitors in refined oil and gasoline in your territory?—A. The Red "C" Oil Company, Sherwood Bros., Harwood, and Richmond Oil Company.

Q. And F. S. Harper, of Alexandria?—A. Oh, yes; F. S. Harper, of Alexandria, jobber of the Red "C" oil.

Q. That is, he sells the Red "C" oil?—A. Yes.

Q. In connection with your refined oil and gasoline business through your territory in competition with the Red "C," the Richmond, Harper, and Sherwood Bros., have you met with any instances of price cutting on the part of these competitors?—A. Yes, sir.

Q. You can state some specific instances, I suppose, can you?—A. Yes, sir.

Q. Go ahead.—A. In March, 1907, the Red "C" Oil Com-
9132 pany shipped oil to Somerset, Virginia, selling it there at 12 cents, giving back $1.15 for the barrel and making a cut of ¾ cent of a gallon under our tank-wagon price.

Q. They gave them back $1.15 when the barrel was returned?—A. Yes, sir.

Q. Making a cut in that way of about 2 cents and a quarter?—A. Yes, sir.

Q. And then, in addition to that, they made a cut of how much?—A. Oh, with the barrel off, from the price that they gave them, made the Red "C" price ¾ of a cent better than our price, after taking the barrel off. The merchants there advised me that they did not consider hauling as an advantage. That is the reason they bought the barreled oil.

Q. Did they buy the barreled oil from the Red "C" by reason of that cut?—A. Yes, sir.

Q. Who had the business before the cut was made?—A. We had.

Q. You mean the Standard Oil Company?—A. Yes, sir.

Q. Did you lose it?—A. Yes, sir.

Q. By reason of the cut?—A. Yes, sir.

Q. Can you give us the names of some of those merchants at Somerset?—A. Yes, sir. Mr. C. E. Morris, R. E. Wilhoit, John G. Wolfork, Uno, and G. D. Thomas, of Wolfton.

Q. R. W. Stephens?—A. N. R. Stephens at Quinque, and W. B. Gillum at Barbersville.

Q. Do you know of any instance, in November, 1906, of cuts being

Q. Can you give us the names of some of those merchants at Somerset, Virginia?—A. Yes, sir .

9133 Q. What was that cut?—A. They sold the merchants oil at 12 cents and gave them a dollar for the return of the empty barrels f. o. b. Somerset, which made a cut of half a cent a gallon.

Q. On what?—A. On refined oil.

Q. On the Standard Oil Company's tank price?—A. On the Standard Oil Company's tank price.

Q. And who got the business?—A. The Red "C" Oil Company.

Q. By reason of that cut?—A. Yes, sir.

Q. From whom had these merchants been buying before that?—A. They had been buying from our tank wagon.

Q. Do you know the case of F. S. Thayer and W. E. Wright of Rhoadesville, Virginia, in April, 1907? Do you remember any cut made by the Red "C" there?—A. The Red "C" Oil Company was selling W. E. Wright and F. S. Thayer, Rhoadesville, Virginia, and giving them a one per cent cut-off, and Mr. Thayer told me that about five cents in his pocket was as good as in the Standard Oil Company's, and by reason of the one per cent he would buy his oil from the Red "C" Oil Company.

Q. And that was barrels against barrels?—A. Barrels against barrels; yes, sir.

Q. The cut there was a special discount of one per cent?—A. A special discount; yes, sir.

Q. Take the case of the Troy Steam Laundry, at Harrisonburg, Virginia, in connection with the sale to it by the Red "C" Oil Company of gasoline.—A. Yes, sir.

Q. What can you tell us about that cut?—A. The Red "C"
9134 Oil Company sold the Troy Steam Laundry 86 gasoline at 22½ cents f. o. b. Harrisonburg.

Q. 86 degrees gasoline?—A. 86 degrees gasoline. That was the kind they had to use.

Q. From whom had the Troy been buying before that?—A. From the Standard Oil Company. Our price on 86 gasoline at that time was 22 cents f. o. b. Baltimore, the nearest place we carried the 86 gasoline.

Q. And his price was what?—A. 22½ cents f. o. b. Harrisonburg, which made them have a better price by 2¼ cents than our price f. o. b. Harrisonburg—it would be that after paying the freight.

Q. So that cut there, taking into consideration the freight, was a cut of 2¼ cents a gallon?—A. 2¼ cents a gallon.

Q. Did the Red "C" get the business of the Troy?—A. Yes, sir.

Q. By reason of that cut?—A. Yes, sir.

Q. Kaylor & Company, of Grottoes, Virginia, do you know of any cut made there by the Red "C"?—A. The Red "C" Oil Company gave Kaylor a cut of one per cent on their gasoline. Kaylor told me that he could buy oil from the Red "C" Oil Company at one per cent less than we could sell him from tank wagon, and he also advised me that the Red "C" Oil Company allowed them for all shortage from barrels due to leakage.

Q. Who had had the business of Kaylor & Company before that?—A. We have never had that business, Mr. Rosenthal.

Q. Did you try to meet that price?—A. No, sir.

Q. In order to get the business?—A. No, sir.

Q. Take the case of Sprole-Roundabush Milling Company and the Shenandoah Foundry & Machine Company, of Shenandoah, Virginia. Was there any cut made by the Red "C" Oil Company there in
9135 connection with the sale of gasoline, and, if so, how much?—A. The Sprole-Roundabush Milling Company and the Shenandoah Machine Company, in March, I think it was, 1907, bought gasoline from the Red "C" Oil Company at 16½ cents Harrisonburg.

Q. That is, f. o. b. Harrisonburg?—A. F. o. b. Harrisonburg, which was the same price as ours on gasoline in drums, but the Red "C" Oil Company did not make them pay the return freight on empty drum, which amounted to half a cent a gallon better price.

Q. Well, that was a cut of a half a cent a gallon?—A. Half a cent a gallon; yes, sir.

Q. Who got the business by reason of that cut?—A. The Red "C" Oil Company.

Q. They got it away from the Standard?—A. Yes, sir.

Q. J. E. Beard & Company, of Broadway, Virginia. Do you know of any cut made there?—A. I called on Mr. Beard, I think it was about August 4, 1908. We had had his business previous to this time. And Mr. Beard asked me to get the prices right. I asked him why? He said: "You are not low enough," and he told me that the Red "C"

Oil Company had made him a better price than we had made him on oil.

Q. Did he indicate how much?—A. No, sir.

Q. Do you know of any cut made by the Red "C" to the Adamount Porcelain Company, of Broadway, Virginia?—A. Yes, sir. In August, 1908, Mr. Tantum, superintendent of the Diamond Porcelain Company, advised me that the Red "C" Oil Company had made them a better price on oil by about one cent a gallon. And then in 1907——

9136 Q. Did you lose the business on account of that cut?—A. We didn't have the business. We have never been able to meet the Red "C" Company's price.

Q. You could not get that business?—A. No, sir.

Q. Why not?—A. The Red "C" Oil Company has made them a better price.

Q. That is, you had no authority to cut your price?—A. No, sir.

Q. And the Red "C" had cut its price?—A. Yes, sir.

Q. Do you know of any cut made by the Staunton Safety Oil Company in your territory on refined oil?—A. Yes, sir.

Q. How much?—A. They made a cut of ¾ of a cent a gallon.

Q. Where?—A. To Mr. C. A. Hayden, of Crozet, Virginia.

Q. Did they get the business?—A. Yes, sir.

Q. Away from the Standard?—A. Yes, sir.

Q. Take the case of Mr. Lohr, of Radiant, Virginia, and B. P. & E. W. Lacey, Oak Park, Virginia, and G. A. Reynolds, Oak Park, Virginia. Do you know of any cuts made by the Red "C" Oil Company in the getting of their business?—A. The Red "C" Oil Company gave them 60-gallon oil tanks as an inducement to buy the oil.

Q. Did they buy the oil because of that from the Red "C"?—A. Yes, sir.

Q. From whom had they been buying before?—A. Buying from our tank wagon.

Q. And did you lose the business at that time?—A. Yes, sir.

Q. G. W. Johnson, of Woodville, Virginia. Did the Red "C" make any cut there?—A. They gave them a tank as an induce-

9137 ment to buy.

Q. Did he buy because of that?—A. Yes, sir.

Q. And who lost the business?—A. The Standard Oil Company.

Q. In connection with that cut made by the Red "C" to the Adamount Porcelain Company, did you have any opportunity of getting that business by meeting the cut?—A. By meeting it?

Q. Yes.—A. Did I have an opportunity to do it?

Q. Yes.—A. No, sir; I had no authority. The nearest place we could——

Q. No, you don't understand the question. If you had met the cut do you know whether or not you could have gotten the business?—A. Yes, sir.

Q. How do you know that?—A. Mr. Tantum is very friendly toward me, a good friend personally.

Q. Were you advised by him as to whether or not you could get the business if you met that cut?—A. Mr. Tantum told me repeatedly that if we could meet the Red "C" Oil Company's prices he would give me the business, be glad to do it.

Q. Did you do it?—A. No, sir.

Q. Why not?—A. Because I could not meet the price.

Q. Because you were not authorized to make the cut?—A. No, sir.

Q. Do you know of any cut made by the Red "C" to A. W. McKim & Son, of Luray, Virginia?—A. In October, 1907, the Red "C" Oil Company sold them gasoline in barrels at 16 cents delivered. Our price on gasoline was 14½ cents f. o. b. Baltimore. The difference in freight rate would have made about a cent and a quarter cut in price to A. W. McKim.

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Q. Who got the business?—A. The Red "C" Oil Company.

Q. Who had it before?—A. The Standard Oil Company.

Q. The Red "C" Oil Company sells a red oil, does it not?—A. Yes, sir.

Q. Which it colors by the use of alkinet root?—A. Yes, sir.

Q. That was testified to under cross-examination by Mr. Metzel, at Washington. Do you know what representation, if any, he makes to your trade in your territory as to the superiority of that oil over the Water White oil?—A. He advises them that the red oil is better than the white oil, and on account of his advising the trade that the people buy the red oil from him; some of them buy the red oil from him and the white oil from our tank wagon.

Q. He takes the Water White oil, as I understand, and puts in the alkinet root and thus colors it?—A. That is the way I understand they do it.

Q. Did you ever come in contact with any over-gauging by the Red "C" Oil Company while you were connected with the Baltimore office?—A. The only case that I know of was when I traveled the territory on the eastern shore of Maryland. There was one case at Deal's Island.

Q. What was that case?—A. I found one barrel over-gauged 2 gallons and one barrel over-gauged 3 gallons.

Q. The Red "C" sells generally by barrel delivery, does it not?—A. As a rule; yes, sir.

Q. Do you know whether it has a practice of allowing merchants for leakage?—A. Yes, sir. Most all the merchants that buy Red "C" oil advise me that they allow for leakage.

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Cross-examination by Mr. KELLOGG:

Q. The Standard Oil sells a red oil, too, doesn't it?—A. Yes, sir.

Q. They claim it is superior, don't they?—A. No, sir.

Q. What do they sell it for?—A. Because some people like the oil in their lamps; it has a pretty appearance.

Q. And that is the reason they buy the Red "C"?—A. I don't know, sir.

Q. You don't know anything about that. Now, oil is apt to leak from barrels, isn't it?—A. Yes, sir.

Q. Those two barrels that you gauged, was there any oil in them when you gauged them?—A. No, sir.

Q. Then how do you know how much oil there was in them?—A. On account of the gauge on the barrel.

Q. But you didn't see the invoices?—A. No, sir.

Q. You don't know anything about how much was sold?—A. No, sir.

Q. You don't know whether they got paid for more oil than they delivered, or not?—A. No, sir.

Q. Don't know anything about it?—A. No, sir. What I mean to say, I don't know anything about the invoices or how much was sold out of the barrel.

Q. Speaking about leakage, do you know of any reason why they should not make good if the barrels leak? They are shipped long distances usually, are they not?—A. I know of no reason
9140 why the Red "C" oil should not make an allowance if they wanted to.

Q. Why, certainly. The oil is liable to leak out of the barrels, isn't it?—A. Yes, sir. But I know we do not make any allowance for the oil leaking out of the barrels.

Q. You do not make any?—A. No, sir.

Q. You sell mostly from tank wagon anyhow, don't you?—A. A good portion; yes, sir.

Q. The Red "C" sells almost exclusively from barrels?—A. Yes, sir.

Q. You said something about the merchant did not consider it any advantage, at a certain place here, to get oil in tank wagon.—A. Didn't consider it an advantage to get oil from tank wagon?

Q. Yes; you said that as to some particular place.—A. I said that some merchants did not consider the hauling cost them anything.

Q. As a general thing a merchant will pay more for oil delivered from the tank wagon than he will from the barrels, won't he?—A. It depends on the merchant.

Q. Generally, I say, as a general thing.—A. I have seen them where they would prefer—if they see, in a great many instances, there was half a cent cut, as they did in Somerset, these men see the doughnut and not the hole.

Q. See what?—A. I mean to say they see the half-cent cut and not the loss from——

Q. I am asking you if, as a general thing, merchants do not prefer to buy from the tank wagon.—A. Generally they do. They
9141 are sure as to the amount of oil they get from the tank wagon.

Q. It is cleaner and of less bother, isn't it?—A. As a rule; yes, sir.

Q. Less bother in handling?—A. Yes, sir.

Q. Hauling from the station usually?—A. Sometimes they consider that and sometimes they don't consider that.

Q. There are various reasons of that kind why they will give more for oil delivered to the tank wagon than they will for oil by the

barrel? Generally speaking, I mean.—A. Generally speaking, yes. But if there is a difference in price they won't.

Q. Generally speaking, I say, they will give more for the tank-wagon oil delivered to them than they will for barrel oil?—A. If there isn't a reduction there they will.

Q. Yes, that is what I thought. Now, speaking about gasoline, there are various grades of gasoline, are there not?—A. Yes, sir.

Q. And a great variation in the price according to the gasoline?—A. Yes, sir.

Q. Some gasoline brings 4 and 5 cents more than others, doesn't it?—A. Yes, sir.

Q. And the Red "C" sell different grades and you sell different grades?—A. Yes, sir.

Q. So, all you know about these cuts you have mentioned, any of them, is what the merchant told you, isn't it?—A. No, sir.

Q. Name one where you know of your own personal knowledge.—A. Sprole-Roundabush showed me an invoice——

Q. Of what?—A. That the Red "C" Company had made them this price.

9142 Q. On what—on gasoline or oil?—A. On gasoline.

Q. What price was that?—A. In March, 1907, it was 16½ cents f. o. b. Harrisonburg.

Q. Where is Harrisonburg?—A. Harrisonburg, Virginia.

Q. And yours was what price?—A. Ours was the same price there.

Q. The same price—16½ cents f. o. b. Harrisonburg?—A. Yes, sir.

Q. And they sold it at the same price you did?—A. Yes; but they didn't charge any return freight on the empty drum, though.

Q. He told you that, did he?—A. He told me that.

Q. You don't know whether he did or not?—A. All the merchants told me that.

Q. All you know is what the merchant told you?

Mr. ROSENTHAL. All you know about what?

WITNESS. About the return freight on this drum.

Q. Is what the merchant told you?—A. Yes, sir.

Q. Then that is all you know of any of these cases is what the merchants told you?—A. No, sir.

Q. Well, what?—A. I told you I saw the invoice at that price.

Q. Didn't it state on the invoice that the drums were to be returned?—A. I don't think there was anything specified on there about the drums.

Q. Then I say all you know about it is what the merchant told you?—A. Yes, about the drums.

9143 Q. But the price was the same—16½ cents?—A. The same as ours; yes, sir.

Q. The only cut was in not paying the freight on the returned barrels?—A. Yes, sir; which amounted to about half a cent.

Q. All you know about that is what the merchant told you?—Yes.

Q. That is what I thought.—A. But that is what they do generally; they don't charge them any return freight on empty drums.

Mr. ROSENTHAL. You mean that is what the Red "C" generally does?

WITNESS. Yes, sir. We lose business on account of them not charging return freight on drums when we do.

Q. You don't sell a great deal from drums and barrels anyhow, do you?—A. Yes, sir.

Q. Do you? I thought you sold most of yours from tank wagons.—A. You are referring to gasoline now, aren't you?

Q. Oh, gasoline?—A. Yes, sir.

Q. You sell that mostly in drums and barrels?—A. A good deal of it.

Q. Well, most of it or just part of it?—A. I should say most of it.

Q. All these cases you speak of are since August, 1906?—A. What cases are they?

Q. All these that you have mentioned I say are since August, 1906.

Mr. ROSENTHAL. He gave the specific dates.

Mr. KELLOGG. He did not in all of them.

Mr. ROSENTHAL. I think in every instance.

9144 Q. They are all since August, 1906, are they not?—A. I think they are.

(A recess was here taken until 2 o'clock p. m.)

9145 FRANK L. HEWITT, called on behalf of the defendants, being duly sworn, testified as follows:

Direct examination by Mr. ROSENTHAL:

Q. What is your name?—A. Frank L. Hewitt.

Q. Where do you live?—A. Silver Springs, Maryland.

Q. How far is that from Baltimore?—A. About forty miles.

Q. How large a place is it?—A. It is only a railroad station and a few houses; about 40 or 50 houses, I guess.

Q. What is your business?—A. I am postmaster now, sir, and in the real estate business.

Q. Were you ever an agent of the Dixie Oil Works at Silver Springs?—A. Yes, sir.

Q. When?—A. 1904 till October, 1905.

Q. And what was your business at that time?—A. I was with the Farmers' Supply Company, as treasurer.

Q. What sort of a concern was that?—A. We sold all kinds of agricultural implements and all kinds of farmers' supplies, general merchandise.

Q. A general store located there at Silver Springs?—A. Except groceries; we didn't do anything in the grocery line.

Q. And what were your duties there as agent of the Dixie Oil Works?—A. We sold oil to the wholesale trade.

Q. You were jobbers of oil, were you, for the Dixie?—A. I don't suppose you would call it jobbers. We got a commission on a barrel for selling it.

9146 Q. You simply sold on commission?—A. Yes, sir.

Q. And sold to the trade in and about Silver Springs?—A. Through Montgomery County; yes, sir.

Q. What was it you sold for the Dixie—refined oil and gasoline?—A. Refined oil and gasoline; yes, sir.

Q. Who were the principal competitors of the Dixie Oil Works at Silver Springs and vicinity during the time you represented the Dixie?—A. The Standard Oil Company and the Red "C."

Q. Do you remember the name of the salesman representing the Red "C" Oil Company?—A. W. J. Metzel.

Q. Do you remember the general trend of prices at which the Dixie and the Standard and the Red "C" sold oil through that country?—A. You mean what they sold at a barrel?

Q. No, as to what they sold at comparatively. How did the Dixie and the Standard prices compare?—A. They were about the same.

Q. How did the prices of the Red "C" compare with those of the Standard?—A. The price of the Red "C" was below the Standard. I was in the grocery business before I started in with the Farmers' Supply Company. In 1903 I went into the grocery business in Silver Springs and used to buy oil exclusively from the Red "C" Oil Company; I didn't buy any from the Standard at all. I remember I paid one time 9½ cents a gallon for oil in barrels.

Q. From whom?—A. From the Red "C" Oil Company. I went up to Norbeck, to Mr. Stonestreet, a friend of mine up there——

9147 Q. Was this while you were located at Silver Springs?—A. Yes, sir. And I noticed that Mr. Stonestreet was getting some oil from his tank wagon, and I asked him what he was paying, and he showed me a ticket that he was paying 10½ cents. It was then costing me from the Red "C" Oil Company 9½ cents, and I got $1.07 returned for my barrels.

Q. That is to say, the Standard was selling from its tank wagons in your vicinity for 10½?—A. 10½.

Q. And you were then buying oil from the Red "C" at 9½ and getting $1.07 on barrels which you returned?—A. Yes, sir.

Q. Which amounts to about 2 cents a gallon more?—A. A little more than 2.

Mr. KELLOGG. When was this?

WITNESS. In 1903.

Q. So the net cost of your oil to you was about 7½ cents?—A. Yes, sir.

Q. While the Standard tank-wagon price was 10½?—A. Yes, sir.

Q. Did you ever have any talk with this man Metzel who represented the Red "C?"—A. Yes, sir.

Q. About the purchase of goods from the Red "C" and the prices at which you could purchase?—A. Metzel told me—of course when he was selling to me——

Mr. KELLOGG. That is objected to as incompetent, hearsay, and secondary evidence.

WITNESS. Mr. Metzel told me he would sell me oil half a cent cheaper than I could get it from anybody else if I would deal with

him, and he showed me his orders, what he sold up through Montgomery County; he would sell me half a cent cheaper than he sold any of his trade up in Montgomery County.

9148 Q. That is, he told you that he would sell you for half a cent cheaper than you could get from anyone else?—A. Yes, sir.

Q. And also told you that he would sell you half a cent cheaper than he was selling to other people through Montgomery County?—A. Yes. He used to show me his orders. My place was the last place he stopped at in the county. He showed me what he had sold oil for up through the county.

Q. And Metzel at that time was an agent of the Red "C" Oil Company, was he?—A. Yes, sir.

Q. Now, do I understand that your place, being the last place he would strike in Montgomery County, he would come to you and show you the orders that he had taken from other merchants through the county?—A. Yes, sir.

Q. And then sell to you for half a cent less than he had sold to them?—A. Yes, sir.

Q. And that that was not only half a cent less than he sold to the other merchants, but in addition to that a half a cent less than the market price or a cent less?—A. Oh, it was sometimes 2 cents less.

Q. When did you become the agent for the Dixie?—A. In 1904, in June, I think.

Q. Did you then stop buying from Metzel—the Red "C?"—A. I had sold out then, sir.

Q. You had what?—A. I had sold out my grocery business. In March I sold out my grocery business, and in June Judge Waters and several others and myself organized what was called the Farmers' Supply Company, and then we started to handle the Dixie oil on commission.

9149 Q. Metzel testified in this case that when the Dixie Oil Company appeared on the scene in Montgomery County, Maryland, the thriving trade which the Red "C" Oil Company had there dwindled, that he would lose first one customer and then another. Now, assuming that that statement is true, how do you account for that?—A. Mr. Waters and myself had a large connection up through the county of friends and relatives, and we had lived there all our lives. We went after the trade, we solicited the trade and tried to sell them. All things being equal, of course we supposed we would get it, which we did.

Q. You say "all things being equal." Do you mean by that quality and prices?—A. Yes, sir.

Q. How did the quality of the goods which you were handling as representing the Dixie compare with the quality of goods sold by the Red "C" Oil Company?—A. Why, we sold several grades of oil as well as they did. We sold about the same grade as they did before we started to sell oil for the Dixie. When I was in business for myself I bought some oil from the Dixie. Mr. Metzel came

around and told me that it wasn't any good, told me the oil was muddy and no good, and he had two bottles with him (that he always kept in our store) with samples of his oil in. One had red oil in it and the other had white oil in it. He poured those out, and we went down to the warehouse (he suggested that we go down there), and he drove a nail in the Red "C" barrel first, of Sunbeam oil, and he drew out a bottleful of this oil out of his barrel, and plugged it, and he went to the Dixie barrel and drew out a bottle of that and plugged it up, and his oil was muddy and the Dixie oil was just as clear as spring water, sir. He afterwards tried to get those away from me, but I always kept them on my shelf. He had always
9150 told me not to buy this oil, it wasn't any good, and this was the way he was proving it to me.

Q. That was one of the arguments, I suppose, in building up the Dixie's business thereafter?—A. Yes, sir; I kept those and showed them to the people.

Q. Metzel also testified that the only customers that you called upon and tried to sell were customers of the Red "C" Oil Company, after you became an agent of the Dixie. What is the fact about that?—A. Why, we went to everybody, sir. We sold trade that only bought from tank wagons, that Metzel never had; we sold to people that he had never sold to.

Q. That is, from Standard tank wagons?—A. Yes, sir. We went to everybody that bought oil.

Q. When did the Dixie close its business in Silver Springs?—A. About October, 1905.

Q. Do you know where its customers went to after that?—A. I do not, sir.

Q. Do you know whether they went simply to the Standard or whether they were divided up between the Standard and the Red "C"?—A. I think they divided up; I don't know, sir. I know they divided up, because I know that people who bought from us are now buying from the Red "C," and some of them that bought from us are buying from the Standard.

Q. How did you get your prices while you were agent of the Dixie Oil Works?—A. Got them from Baltimore, from Mr. Bender.

Q. Mr. Bender, the agent of the Dixie at Baltimore?—A. The manager of the Dixie; yes, sir.

Q. And how were those prices exposed to the trade?—A. What do you mean by that, sir?

9151 Q. How did the trade get the prices?—A. They got them from us.

Q. Only from you?—A. Yes, sir.

Q. How did those prices compare with the Standard Oil Company tank-wagon prices?—A. They were about the same, sir.

Q. Do you know of any cases at all where the Dixie, during the years that you represented it as its agent in Montgomery County, sold refined oil or gasoline at a lower price than the Red "C"?—A. No, sir.

Q. Did you ever cut or attempt to cut the Red "C" price in getting or attempting to get business?—A. No, sir. We had that price to go by and we had to go by it, sir; that was sent us to sell oil.

Q. What?—A. The price that was sent us to sell oil by we had to sell by; we would not cut that.

Q. That is, you had no authority to fix prices at all?—A. No, sir.

Q. You had to take the price that you got from Baltimore?—A. Yes, sir.

Cross-examination by Mr. KELLOGG:

Q. Just prior to the time you went to work for the Dixie in 1903, what price were you selling oil at in Silver Springs?—A. Who?

Q. You.—A. Retail?

Q. Yes.—A. Twelve cents.

Q. What price were you paying the Standard for it?—A. I never bought any from the Standard.

9152 Q. Of whom were you buying?—A. The Red "C."

Q. What were you paying the Red "C"?—A. I used to pay from 9 to 10 cents and get my return for the barrel, sir.

Q. 9 to 10 cents?—A. Sometimes 9¼ and 9½ and 9¾, something like that.

Q. That is what you were paying when the Dixie came in there?—A. Yes, sir.

Q. When the Dixie came in you made your arrangements with what person?—A. With an agent they had, named Knight. That was when I was in the retail grocery business, when I bought oil to sell—not to sell on commission.

Q. I am talking about when you became the agent of the Dixie Oil Works.—A. Mr. Bender.

Q. Before you became the agent of the Dixie Oil Works you used to buy oil of them, did you?—A. I used to buy of them; yes, sir.

Q. When?—A. I bought some oil from them——

Q. Did you buy oil of the Dixie before you commenced as their agent?—A. Yes, sir.

Q. When you were buying from the Red "C"?—A. Yes, sir.

Mr. ROSENTHAL. You started to say something and were interrupted. Do you wish to add anything to that answer?

WITNESS. Yes, sir.

Mr. ROSENTHAL. Go ahead.—A. When I went to Silver Springs and bought this business, the first salesman that came around was Mr. Metzel, and he told me not to buy oil from Baltimore; he said this company would be around to see me, that the oil was no good, and he kept me bluffed for six months.

9153 Q. He told you the Dixie would be around to see you?—A. He told me that this company from Baltimore would be around to see me and that the oil was no good, and I didn't buy any from him. This Dixie agent used to come around to see me and I didn't buy any oil from him until about October, 1903, when I bought two barrels to try.

Q. What price did you pay him?—A. The same as I did the Red "C." I forget that now.

Q. Is that the only oil you bought of the Dixie?—A. No, sir; that was the first I bought from the Dixie.

Q. Did you buy from them after that?—A. Yes, sir.

Q. Who sold it to you?—A. Mr. Knight.

Q. What was his first name?—A. I don't know, sir.

Q. Did he also go by the name of Cropman?—A. I think so.

Q. What was he going under an assumed name for?—A. I never asked him. I never knew it then that he was going under one.

Q. He did go under the name of Cropman, didn't he, and part of the time under the name of Knight?—A. I afterwards heard he was Cropman; yes, sir.

Q. Did he tell you he was selling for the Standard Oil?—A. No, sir.

Q. He told you he was selling for the Dixie?—A. Yes, sir.

Q. He told you it was an independent company, did he?—A. Yes, sir.

Q. And had nothing to do with the Standard Oil?—A. Yes, sir.

Q. You afterwards learned that it was owned by the Stand-
9154 ard, didn't you?—A. No, sir.

Q. You never heard that?—A. Oh, I heard it. Metzel used to tell me, but I didn't believe it.

Q. You never believed Metzel?—A. No, sir. I believe Metzel now.

Q. Now, when they sold you that two or four barrels in October, what price did you pay for it?—A. I don't know what price I paid now.

Q. You don't know what price it was?—A. I don't remember now; no, sir.

Q. Do you remember what Metzel was selling to you for?—A. Not at that time. It was between 9 and 10 cents, I think.

Q. You can't name the price of the other fellow?—A. No; I can't name either price at that time. Oil varied.

Q. When did you commence with the Dixie?—A. Commence how?

Q. As their agent.—A. In June, 1904.

Q. Were you buying during the winter from the Dixie—1904?—A. No, sir; I never bought any after December.

Q. Until you became the agent?—A. Until I closed out in March. I was sick and went to bed, sir.

Q. You closed out——A. In March, 1904.

Q. What do you mean by "closed out"—sold out?—A. Sold out; yes, sir.

Q. To whom?—A. To Bernie Gannon.

Q. What price were you paying during that winter and generally during the year 1903, and during the winter of 1904, for oil, whole-
sale?—A. I don't know, sir.

9155 Q. About what price?—A. About 9 or 10 cents, I should think.

Q. Was the Standard Oil selling there at that same time?—A. Yes, sir.

Q. Was the price the same as the price in Washington?—A. I don't know, sir; I never bought in Washington.

Q. The Dixie was peddling oil there also, wasn't it?—A. Peddling?

Q. Yes.—A. How do you mean, sir?

Q. To the consumers.—A. When?

Q. During that same time.—A. What time is that?

Q. 1903 and 1904.—A. The Dixie sold through Montgomery; yes, sir.

Q. To the consumers?—A. No, sir; not to the consumers.

Q. Was the Home Safety Oil Company selling any in there?—A. No, sir.

Q. The Standard Oil Company was selling?—A. By tank wagon; yes, sir.

Mr. ROSENTHAL. Not to consumers?

WITNESS. Not to consumers.

Mr. ROSENTHAL. To whom?

WITNESS. To the trade, wholesale.

Q. After you took the Dixie did Mr. Bender tell you whom he represented?—A. The Dixie Oil Company; yes, sir.

Q. Did he say it belonged to the Standard Oil Company?—A. No, sir.

Q. Did he say it did not?—A. I don't think I ever asked him.

Q. Did he tell you to make a special drive for the Red "C" 9156 customers?—A. No, sir.

Q. Did you do it?—A. No, sir.

Q. Name some of the customers of the Standard Oil Company that you took away from them.—A. I don't know whether I took away from them; I sold to them.

Q. To whom?—A. To Walter Waters at Tacoma; sold to Stonestreet at Norbeck; to Harris Bros. at Oakdale.

Q. Was the Red "C" selling to them, too?—A. No, sir; it was not. And Carson Ward at Galesburg.

Mr. ROSENTHAL. Give him the rest of them.

Q. Go ahead. While you were agent for the Dixie.—A. Do you mean people that did not buy at all from the Red "C?"

Q. Yes.—A. Those were exclusively Standard customers.

Q. They were buying from the Standard?—A. Yes, sir.

Q. Why did they buy of you? Did you sell them at less than the Standard?—A. I don't think so. I don't know. They bought from me.

Q. Now, you say you never cut the prices of the Red "C." How do you know you did not?—A. I never went to a man and asked him what he was paying the Red "C" and offered to sell him for less. Isn't that cutting prices?

Q. Then, you didn't know what he was paying the Red "C?"—A. I used to know; yes, sir.

Q. How did you know?—A. They used to tell us around.

Q. They used to tell you; that is all you did know about it, what they told you?—A. Only what they told us.

Mr. ROSENTHAL. Did you see any tickets?

9157 WITNESS. Yes, sir; I saw some tickets. I saw the bill—not tickets.

Q. Not tickets?—A. The bill.

Mr. ROSENTHAL. Do you mean Red "C" tickets or Red "C" bill?

WITNESS. Red "C" bill.

Q. You sold at the same price they did?—A. About; yes, sir.

Q. When did you quit the Dixie?—A. October, 1905.

Q. The Dixie quit business then, didn't it—withdrew from the trade?—A. Yes, sir.

Q. Why did they do that?—A. I don't know, sir.

Q. You don't know?—A. No, sir.

Q. Did you hear?—A. No, sir.

Q. Did your customers go to the Standard?—A. We didn't send them to the Standard; they went to whomever they chose, sir. Lots of them are buying from the Standard and lots of them are buying from the Red "C;" they are buying from both of them.

Q. You didn't hear that the reason the Dixie quit business was because it was discovered that it belonged to the Standard Oil Company?—A. No, sir.

Q. To whom did you send your collections?—A. Mr. Bender, Dixie Oil Company.

Q. Addressed to Mr. Bender personally?—A. No, sir; I think it was addressed to the Dixie Oil Company.

Q. What number and street?—A. Oh, I forget now.

Q. Baltimore?—A. It was in Baltimore.

Q. And you had your oil shipped from Baltimore?—A. Yes, sir; I think it came from Baltimore.

9158 Q. Do you know that the Red "C" ever cut your price?—A. Do I know it?

Q. Yes.—A. No, sir.

9159 VICTOR H. BROWNE, called on behalf of the defendants, being duly sworn, testified as follows:

Direct examination by Mr. CRAWFORD:

Q. Mr. Browne, where do you live?—A. Norfolk, Virginia.

Q. What is your business?—A. I am now general salesman for the Norfolk branch of the Standard Oil Company.

Q. How long have you had that position?—A. For two years.

Q. What was your position before that?—A. I was local tank-wagon superintendent at Norfolk.

Q. For the Standard Oil Company?—A. For the Standard Oil Company.

Q. For about how long?—A. For about two years.

Q. What is your territory as salesman?—A. Northeastern Carolina and part of Virginia—tidewater Virginia.

Q. About how many customers have you in that territory, in round figures?—A. It is hard to tell. There are a great many of them. I have got about six or seven counties that I work.

Q. Some hundreds, see there?—A. Yes, sir.

Q. Do you sell refined oil?—A. Refined oil; yes, sir.

Q. And gasoline?—A. Gasoline, and also lubricating oils.

Q. What office do you report to?—A. The Norfolk office.

Q. Who is at the head of the Norfolk office?—A. Mr. C. D. Hill.

Q. Is he what you call special agent?—A. Special agent.

Q. From whom do you get the prices at which you sell?—A. I get my prices from Mr. Hill.

9160 Q. Have you any discretion as to varying from those prices—A. No, sir; we live up to our prices.

Q. Do you, in fact, ever sell at any price different from that which has been given to you by your superiors?—A. I do not.

Q. Or have you ever done so?—A. I have not.

Q. What competitors have you in your territory?—A. I have the Red "C," the National Oil Company, Robinson, Son & Company, W. W. Hines, Sherwood Bros., Harwood Bros., Crown Oil and Wax Company.

Q. Have you, in running up against competition from any of these concerns, ever cut your price in order to get business from them?—A. I have not.

Q. Has the Standard office, through you, ever cut any price of any of those competitors?—A. No, sir.

Q. To your knowledge?—A. Not to my knowledge.

Q. They have never done it through you, anyway?—A. No, sir.

Q. Do you know of any instances where any of these competitors have cut your price?—A. I do.

Q. Take the National Oil Company; that was one of the companies which you mentioned. The National Oil Company sells to the trade, does it not?—A. To the trade; yes, sir.

Q. And you sell to the trade?—A. To the trade.

Q. Not to the consumers?—A. No, sir; I sell to the trade.

Q. That is, you sell to grocers and dealers and that sort?—A. To the dealers.

Q. And they sell to the dealers in your territory. Can you mention any instances where you know that the National Oil Company

9161 cut your price?—A. Yes, sir; they cut my price at South Hill, Virginia.

Q. When was that?—A. That was about 1907, I think.

Q. What time in 1907?—A. The whole year they were under my price.

Q. Did they cut it to a particular customer, or did they cut it generally?—A. Generally.

Q. What was the cut?—A. A quarter of a cent.

Q. That is, they sold at a quarter of a cent less than you?—A. Less than me.

Q. Who were the customers, if you remember, at South Hill, Virginia, that they sold at this low price to?—A. J. S. Dorch, W. T. Moore, B. & F. Ogburn, and Wall & Co.; in fact, all of the merchants there.

Q. Had you previously sold them?—A. Yes, sir; we had previously sold these merchants.

Q. They had been customers of the Standard previous to that time?—A. Yes, sir.

Q. What was the result on your trade of this cut by the National?—A. The National just took the business; that was it.

Q. And you lost it, did you?—A. Lost it; yes, sir.

Q. Did you report their cut?—A. I did.

Q. Were you instructed, in consequence, to make any reduction?—A. After a while we met their prices.

Q. How soon afterwards—quickly or some considerable time?—A. Oh, no; it was several months.

Q. Do you know anything about some transactions at Edenton, North Carolina?—A. About three months ago the National
9162 Oil Company's representative went into Edenton and appointed Mr. Eugene Warren, agent for the Albemarle Steamship Line, also their agent.

Q. At that time were you selling there?—A. Yes, sir.

Q. Refined oil and gasoline?—A. Refined oil and gasoline.

Q. What did Mr. Warren do?—A. We were selling gasoline at Edenton at our f. o. b. Norfolk price.

Q. You sold it at your Norfolk price and they paid the freight?—A. And they paid the freight. On my first trip down there after Mr. Warren was appointed agent I called on my trade, but was unable to sell them. Of course I asked for an explanation. Mr. Warren was selling them gasoline at f. o. b. Norfolk price delivered Edenton. That was just a cut of about a cent a gallon. The freight there is 45 cents a barrel.

Q. What was your price at Norfolk at that time for gasoline?—A. 13½ cents, if I remember right.

Q. And you were selling to the Edenton customers at 13½ cents and they paid the freight?—A. And they paid the freight.

Q. And Mr. Warren was selling to them at 13½ cents?—A. 13½ cents delivered Edenton.

Q. That is, he paid the freight?—A. Yes, sir; he or his company.

Q. He or his company paid the freight. And then, in addition to that, there was a concession for the barrel?—A. Yes, sir. He allowed them a dollar for the barrel.

Q. What did that make the gasoline net the customer in Edenton?—A. That made it net the customer about 11½ cents.

Q. Without any freight?—A. No freight. Net price 11½
9163 cents Edenton against my price 13½ Norfolk.

Q. In that Edenton instance was the oil delivered to the customers at their stores or delivered at the station?—A. No, sir; he put it on his dray and hauled it to the man's place.

Q. So they got the benefit of the drayage also, did they?—A. They got the benefit of the drayage also; yes, sir.

Q. What did that amount to; what was it worth?—A. I should think 10 cents a barrel.

Q. Do you know a man named Land in Suffolk?—A. H. L. Land, Suffolk, Virginia; yes, sir. I called on Mr. Land. I think this was in June, 1908. I sold him a bill of lubricating oil. In the meantime I took up the gasoline question with him, knowing that he used a good deal, and he asked me my price. I told him 13½ cents Norfolk, and he said, "I can beat that. I buy from the National Oil Company 13½ cents Suffolk.

Q. That is to say, you were selling your Suffolk customers at the Norfolk price plus the freight?—A. Plus the freight; yes, sir.

Q. They paid the freight?—A. They paid the freight.

Q. And you understood him to say that the National—was it?—A. The National Oil Company; yes, sir.

Q. Was selling at the Norfolk price after delivering at Suffolk?—A. He delivering at Suffolk.

Q. That is, the customer in that case paid the freight?—A. Yes, sir. I told Mr. Land I thought it must be a mistake, I didn't think the people would sell that way. He said, "Well, we will call
9164 their agent up." In the meantime he showed me a receipted invoice. Then we called the agent up and he told him that he would send him over a barrel at this price and stand the drayage on it. That was the Norfolk price delivered at his place of business.

Q. Had you previously sold Mr. Land?—A. Yes, sir.

Q. After this transaction with the National did you lose that business?—A. I have; yes, sir.

Q. Those customers at Edenton (I forgot to ask you about that) were customers to whom you had previously sold?—A. Yes, sir.

Q. And what was the result on your trade of this cut in price by the National?—A. We lost the business, and we have not regained it all yet. A very small percentage we have gotten back.

Q. Do you know a man named Burfoot at Elizabeth City?—A. Yes, sir.

Q. Who is he?—A. He is the buyer for J. B. Flora & Company.

Q. At Elizabeth City, that is?—A. Yes, sir; North Carolina.

Q. What are they?—A. They are jobbers.

Q. Jobbers in what?—A. Wholesale grocers.

Q. Jobbers in oil?—A. They handle oil in connection with their other goods.

Q. To whom did they sell it?—A. They sold it to the country trade, in barrels.

Q. Had they been customers of yours?—A. Yes, sir.

Q. Was there a time when they left you and went to the National?—A. Yes, sir; they left me some time this year, and I called on Mr. Burfoot and asked him why it was that he had gone
9165 back on me that way, and he told me that the other people were allowing him 2 per cent discount there, that we were

never allowed to do, and as he handled right much oil it was a saving to him. It was a small cut, but at the same time it was a cut.

Q. In this particular trade that you are speaking about, was it barrel or tank-wagon business?—A. That was barrel business.

Q. The National was selling J. B. Flora & Company also in barrels, were they not?—A. Also in barrels.

Q. That was a competition by barrels against barrels?—A. Barrels against barrels.

Q. Do you know a man named Grissett in Jarretts, Virginia?—A. Yes, sir. We were selling him from tank wagon. This was tank wagon against barrel. The Richmond Oil Company representative went in and sold him at 9¾ cents. That was a cut of a quarter of a cent.

Q. What was your price in tank wagon?—A. My price in tank wagon was 11 cents.

Q. Eleven cents?—A. Eleven cents.

Q. And the Richmond Oil Company sold him at 9¾ cents?—A. At 9¾ and allowed him $1.25 f. o. b. Jarretts for the empty package.

Q. What did that make the oil net him?—A. The freight there, I think, was 50 cents a barrel. That made the oil net him about 8½ to 9 cents.

Q. Against your price of how much?—A. Against my price of 11 cents.

Q. Do you know a man by the name of Raney?—A. At Smokeyard, Virginia.

9166 Q. What is his first nome?—A. R. A., I think.

Q. R. A. Raney. Was he formerly one of your customers?—A. He used to be; yes, sir.

Q. Did you lose him?—A. Yes, sir.

Q. To what concern?—A. To the National Oil Company. Mr. Raney doesn't do business enough to receive five barrels of oil at one time, and, as you know probably, we have a five-barrel price, at a quarter of a cent under the single-barrel price. I had been selling him oil in single-barrel lots. The National Oil Company's representative called on Mr. Raney and sold him five barrels of oil, to be ordered out as he wanted it, at the five-barrel price.

Q. That amounted, therefore, to a cut of a quarter of a cent?—A. A quarter of a cent.

Q. Under your price for a single barrel?—A. Yes, sir.

Q. And it was barrel against barrel there, was it?—A. Barrel against barrel.

Q. Do you know a man by the name of J. H. Ryland?—A. At Lawrenceville, Virginia.

Q. Did you formerly sell him?—A. Yes, sir.

Q. What did you sell him?—A. I sold him gasoline.

Q. What is his business?—A. He runs a gristmill there.

Q. Whom is he buying his gasoline from now?—A. He is buying from Harwood Bros., Richmond.

Q. How long has he been buying from them?—A. About two years.

Q. Do you know how they got the trade away from you?—A. Yes, sir; by cutting my price half a cent. I have seen the invoices
9167 and have made reports on it to the office, but have never been allowed to meet Mr. Harwood's price.

Q. Do you know a man named W. A. Stevenson?—A. Wakefield, Virginia.

Q. Was he formerly a customer of yours?—A. I have never sold Mr. Stevenson.

Q. Have you tried to sell him?—A. I certainly have; yes, sir.

Q. What difficulty have you found?—A. He is buying his refined oil now from Harwood Bros., Richmond. I have never been able to meet their price, but he has shown me invoices away below my price. I had a talk with Mr. Stevenson last week, and he told me he was getting his oil a cent cheaper than I could sell it to him.

Q. You were at one time superintendent of tank-wagon service in Norfolk, were you not?—A. Yes, sir.

Q. I think you said that was from 1904 to 1906?—A. To March 1, 1906.

Q. What competition did you have there?—A. I had the National Oil Company and the Dixie Oil Company.

Q. How did the prices of the Standard Oil Company, your prices, and those of the Dixie compare?—A. The same.

Q. They were the same. How were the prices of the National in comparison with yours, if you know?—A. Their price was the same in Norfolk; yes, sir.

Q. Do you know of any instances where they cut your price at that time?—A. Yes, sir; they cut my price at Port Norfolk.

Q. When was that?—A. I think that was in 1905.

Q. What were the facts there?—A. Port Norfolk is out in the country; it is a suburban trip. We carried half a cent above the city price there.

9168 Q. You mean to say that your price at Port Norfolk was half a cent more than——A. More than the Portsmouth price.

Q. On account of the distance you had to drive?—A. On account of the distance we had to haul the oil; yes, sir.

Q. What did the National do?—A. The National Oil Company made a cut of half a cent there; sold at the same price there as they did at Portsmouth proper.

Q. What effect did that have on your trade?—A. Well, they took all of the trade.

Q. Took all the trade away from you?—A. Yes, sir.

Q. Do you know a concern called the Barnes Grocery Company?—A. The Barnes Grocery Company; yes, sir.

Q. Where are they?—A. In Norfolk.

Q. Do you know of a transaction between them and the National Oil Company in which oil was given to them?—A. I was never able to sell the Barnes Grocery Company on that account.

Q. Tell us about the facts, what you know about it.—A. When I first took hold of the tank-wagon business there in Norfolk I called on these people and they told me they had a contract a half a cent below my price for 1,500 gallons; that this contract would expire the last of the year. The first part of the following year I called on them and tried to sell them. They had no contract then, but told me they were getting extra oil, that is, about 5 gallons extra oil with every 50 they bought.

Q. You mean to say that the National Oil Company gave them 5 gallons for every 50 they bought?—A. Yes, sir.

Q. That is what Barnes told you?—A. Yes, sir.

9169 Q. Do you know a concern called the Sawyer Grocery Company?—A. I do; yes, sir.

Q. Where is that concern?—A. In Norfolk.

Q. Do you know of any similar transaction in connection with them?—A. They claimed to get the same—4 or 5 gallons with each 50 they bought from the National Oil Company, free.

Q. When was that?—A. That was during the same year.

Q. 1906?—A. 1905.

Q. What time in 1905?—A. I should say about June; I can't recall the date now.

Q. Had you previously sold any of those companies you mentioned?—A. I never sold them; no, sir.

Q. Did you solicit their business?—A. I did.

Q. Did you get it?—A. I never did get the Barnes business, but Mr. Sawyer had a fuss with a National driver about something and then I did get his business.

Q. When was that?—A. That was the latter part of 1905. I couldn't tell you if he is selling them now or not.

Q. Did you lose any more customers to the National on account of their giving oil away?—A. I can't recall any right now, sir.

Q. Did you also sell lubricating oil?—A. Yes, sir.

Q. And you have, I suppose, ever since you have been general salesman?—A. Yes, sir.

Q. Who are your competitors in lubricating oils?—A. W. C. Robinson, Son & Company, the Red "C" Oil & Manufacturing Company, the National Oil Company, Crown Oil & Wax Company, Harwood Bros., Sherwood Bros., and W. W. Hynes, of Petersburg.

Q. Do you know of any instances where any one of these
9170 competitors has cut the lubricating prices of the Standard Oil Company?—A. Take the Camp Manufacturing Company of Franklin, Virginia.

Q. I don't think you mentioned that, did you?—A. I think so, sir.

Q. Is that a customer or a competitor?—A. That is a customer. I had always been selling the Camp Manufacturing Company up until the time that contract expired, about March of this year. I called on these people to renew the contract and Mr. Camp held me off. I afterwards called on him again with Mr. F. A. Dille and C. D. Hill and had a talk with Mr. Camp and gave him my prices f. o. b. Nor-

folk. Mr. Camp refused to sign any contract, saying that Robinson, Son & Company had made him far better prices than we had.

Q. Do you recall what the difference amounted to?—A. They said from 2 to 3 cents a gallon less than ours, and their oil was guaranteed to do the same work that our oil would do.

Q. Who is Mr. Dille that you mentioned?—A. He is an expert engineer.

Q. He is not in the employ of the Standard Oil Company?—A. Yes, sir.

Q. Oh, he is? And Mr. Hill is your special agent?—A. Special agent in Norfolk.

Q. Do you know of a concern named Norfleet & Bro.?—A. Yes, sir; Suffolk, Virginia.

Q. Did you have any transaction with them?—A. I solicited their business and gave them my market prices, but he was at that time buying from Crown Oil & Wax Company and is still buying from them at prices away below mine.

9171 Q. You had not previously sold him?—A. I had sold him a barrel occasionally, something like that, but never had his business.

Cross-examination by Mr. KELLOGG:

Q. You told about a certain grocery company which sold oil to some of your customers. Harwood Grocery Company, is it?—A. Harwood Grocery Company.

Q. Harwood Bros.—A. Harwood Bros.; yes, sir.

Q. Where?—A. They are located in Richmond.

Q. They are Standard Oil jobbers, are they not?—A. I couldn't tell you, sir.

Q. Don't you know they sell Standard oils?—A. No, sir; I do not. I don't go to Richmond at all.

Q. Don't you know what brands of oil they sell?—A. They don't sell Standard Oil Company brands.

Q. How do you know they do not?—A. It is not stenciled on the head of the barrels, sir.

Q. What are the Standard Oil brands of illuminating oils?—A. Aladdin, Diamond White, Pratt's Astral, and Carnadine.

Q. They do not sell any of those?—A. None of those; no, sir.

Q. Don't they buy all their oil from the Standard Oil Company?—A. I couldn't tell you; I don't know.

Q. You don't know that they do not?—A. I don't know whom they buy their oil from.

Q. All these cuts you have given are in 1907 and 1908, except where you are talking about Norfolk?—A. Except Norfolk; yes, sir.

Q. And all you know about it is what the customer told
9172 you?—A. Well, I had every reason to believe that they are cuts.

Q. Yes; but what you know about the facts is what the customer told you?—A. I have seen invoices.

Q. How many invoices did you see, and when?—A. I saw invoices at Suffolk; I saw invoices at Wakefield; I saw invoices at Lawrenceville—J. H. Ryland; I have seen invoices time and time again.

Q. You named certain cases here. Did you see invoices in every one of those cases?—A. Yes, sir.

Q. In every one of these cases you named you saw the invoice, did you?—A. Yes, sir.

Q. In each one of them were Harwood Bros. selling barrel oil?—A. Barrel oil; yes, sir.

Q. And you were selling tank-wagon oil?—A. No; I was selling barrel oil in some cases.

Q. In these cases you have mentioned were yours tank-wagon sales?—A. The three cases I just mentioned?

Q. Yes.—A. Barrel oil, sir.

Q. Now, when you went to Norfolk the Dixie Oil Company, you say, was one of your competitors?—A. Yes, sir.

Q. You don't know anything about the price the Dixie sold at?—A. We were selling at the same price.

Q. Do you know that you sold at the same price in every case?—A. As far as I know we did.

Q. Well, do you know that you sold at the same price in every case?

Mr. ROSENTHAL. I submit he has answered that. He says as far as he knows they did.

9173 Q. Answer the question, please.—A. I never heard of any cut made by the Dixie in Norfolk.

Q. You never did while you were there. But you do not know that they did not make cuts, do you?—A. Why I couldn't tell you, sir. I have no right to believe they did.

Q. Were you selling to the Dixie's customers?—A. Whenever I could; yes, sir.

Q. And they were selling to yours?—A. Yes, sir.

Q. Did you know it belonged to the Standard Oil?—A. I did not. I worked against the Dixie just as hard as I would work against the National or anybody else. They were my competitors.

Q. Were you a salesman in Norfolk?—A. Yes, sir.

Q. And sold to the Dixie's customers right along?—A. Whenever I could.

Q. You didn't cut the Dixie prices?—A. I did not.

Q. And the Dixie didn't cut yours?—A. No, sir; not that I know of. I never heard of it.

Q. You don't know anything about what the Dixie did as to the National Oil Company's customers? You didn't keep track of the Dixie's business, did you?—A. I worked my trade, the whole business. I worked the National trade, the Dixie trade, just——

Q. I am not talking about that. But you don't know anything about what the Dixie did as to the National Oil Company's customers?

Mr. CRAWFORD. He hasn't said he did and he hasn't been asked about it.

A. No.

9174 Q. You only know as to your own customers?—A. I was working my trade.

Q. The Dixie might have cut the National Oil Company's customers and you wouldn't know it?

Mr. CRAWFORD. I object to the witness theorizing. He says he doesn't know anything about it.

A. I don't know anything about it.

Q. Please answer the question?—A. I don't know anything about that, sir.

9175 N. MAYNARD WORLEY, called on behalf of the defendants, being duly sworn, testified as follows:

Direct-examination by Mr. ROSENTHAL:

Q. What is your full name, Mr. Worley?—A. N. Maynard Worley.

Q. What does the "N." stand for?—A. No significance at all; just merely a silent letter in my name. N. Maynard Worley is my entire name.

Q. Where do you live?—A. Lynchburg, Virginia.

Q. How far is that from Richmond?—A. About 150 miles.

Q. How far is that from Baltimore?—A. 225 miles.

Q. How long have you lived there?—A. At Lynchburg for about seven years.

Q. What is your business?—A. General salesman under the Richmond branch.

Q. For what?—A. General salesman under the Richmond, Virginia, branch.

Q. The Richmond branch of what?—A. Of the Standard Oil Company.

Q. What territory do you sell merchandise in?—A. I have a portion of southwestern Virginia.

Q. A number of counties?—A. About eight or ten counties.

Q. How long have you been in the Richmond office?—A. I have been with the Richmond office about seven years.

Q. What class of merchandise do you sell in your territory?—

9176 A. Refined oil, gasoline, lubricating oils, and the oil-consuming articles.

Q. Have you been doing that for the last seven years?—A. Yes, sir.

Q. Who are your principal competitors down there in lubricating oils?—A. My lubricating business is very light. We have a general lubricating man in my territory. But there are several concerns that work the country trade which I look after chiefly—the Carran Oil Company, the Valley Oil Company, the Cleveland Oil Company, and there is some little competition from the Frank Oil Company, Titusville, Pennsylvania.

Q. The Valley?—A. That is another Cleveland concern; small jobbers from Cleveland, Ohio.

Q. From whom do you get your prices for your lubricating oils?—A. From the Richmond office.

Q. From the special agent there?—A. Yes; from the special agent, by letter.

Q. You may state whether you were at liberty to depart from the prices as you got them from the special agent at Richmond.—A. No, sir; I had no right to depart from prices.

Q. Did you ever do so?—A. No, sir.

Q. Taking up the matter of refined oil and gasoline, who were your principal competitors in that connection?—A. At the present time, you mean, or during the entire years?

Q. During the entire seven years.—A. Richmond Oil Company, Frank Oil Company, Titusville, Pennsylvania, Red "C" Oil Company.

Q. Of Baltimore?—A. Baltimore, under the name of F. S. Harper, Alexandria, who handled their oil; Southern Oil & Supply Company, Lynchburg.

9177 Q. Waller Bros.?—A. Waller Bros., Danville; yes, sir.

Q. F. S. Harper, of Alexandria?—A. Yes, sir. I just mentioned him.

Q. From whom did you get your refined oil and gasoline prices?—A. From the Richmond office.

Q. In what shape?—A. By letter.

Q. Were you authorized to deviate from those prices?—A. In no case.

Q. During the seven years that you have been general salesman for the Standard Oil Company in southwestern Virginia have you ever, in the sale of your refined oil or gasoline, cut your market price below the price of your competitors?—A. No, sir.

Q. Have they ever cut their price below your market price?—A. Yes, sir.

Q. Frequently?—A. Very much, recently.

Q. The last two years more than before?—A. Yes, sir.

Q. I suppose, Mr. Worley, that you can give specific instances of price cutting by your competitors, can you?—A. Yes, sir.

Q. I direct your attention first to a case of the Umstead-Bibbe Grocery Company, at Brookneal, Virginia. For whom was that company acting as agent?—A. They are wholesale grocers at Brookneal, acting as agents for the Richmond Oil Company, carrying oil as consigned stock.

Q. Richmond, Virginia?—A. Yes, sir.

Q. What brand of their oil was it that competed with your Aladdin brand?—A. They just only sold one brand there that I met with, the Electric Safety oil.

9178 Q. How did that compare with the Aladdin and how was it represented to the trade?—A. They represented their Electric Safety oil as being equally as good as our Aladdin.

Q. How did its price to this particular concern, the Umstead-Bibbe Grocery Company at Brookneal, compare with the price of Aladdin?—A. Our price for Aladdin oil at Brookneal was 12 cents f. o. b. Lynchburg plus 1½ cents per gallon freight from Lynchburg,

which was 13½ cents delivered at Brookneal. The Umstead-Bibbe Grocery Company quoted their Electric Safety oil at 12½ cents delivered at Brookneal.

Q. That would be a cut of 1½ cents a gallon on your oil?—A. A cut of 1½ cents per gallon on our Aladdin oil.

Q. How about the Diamond Headlight? Whose oil was that?—A. The Diamond Headlight is our brand, our cheaper brand.

Mr. KELLOGG. What year is this?

WITNESS. The present year.

Q. What was its price?—A. Our Diamond Headlight price is 12¾ cents delivered there, taking into consideration the Lynchburg price plus freight. Their price on Electric Safety oil was also a quarter under our Diamond Headlight.

Q. That is, your Diamond Headlight was 12¾ and their Electric Safety was even lower than that?—A. Yes, sir, 12½.

Q. The Diamond Headlight was not as high class an oil as the Aladdin?—A. No, sir.

Q. Is Christiansburg, Virginia, in your territory?—A. Yes, sir.

Q. How much of a town is that?—A. That is a town of several thousand inhabitants.

9179 Q. Who are your principal competitors there in refined oil and gasoline?—A. The only competitor I have met with there is the Frank Oil Company, Titusville, Pennsylvania, who quoted gasoline there recently by letter.

Q. Have you a tank-wagon price on gasoline there?—A. No, sir.

Q. How is your gasoline sold?—A. We sell to Christiansburg customers from Roanoke in barrels.

Q. What was your open market barrel price on gasoline?—A. 16 cents f. o. b. Roanoke, with a freight rate of 1½ cents per gallon.

Q. F. o. b. Roanoke?—A. Yes, sir.

Q. A freight rate of 1½ cents a gallon?—A. Yes, sir.

Q. Making it 17½ cents laid down at Christiansburg?—A. Yes, sir; that is on the deodorized gasoline.

Q. And the Frank Oil Company of Titusville came in there and offered to sell deodorized gasoline of the same grade at what price?—A. 16⅝ cents per gallon delivered, in barrels.

Q. Making about a cent a gallon less than the price which the Standard was selling its gasoline for?—A. Yes, sir.

Q. Did you meet that cut?—A. No, sir.

Q. Did you try to meet it? A. No, sir.

Q. Did you lose any business by reason of it?—A. No, sir; they were a great distance and the trade never made any purchases, but I saw the written quotation.

Mr. KELLOGG. What year was that?

WITNESS. That was this year.

9180 Q. In your territory, during the seven years that you have been working for the Standard, do you know of a single cut in price that was initiated by the Standard Oil Company as against any of its competitors?—A. No, sir.

Q. Not one?—A. Not one.

Q. Do you know of any case where the competitors offered rebates?—A. Only in the case of the Southern Oil & Supply Company, Lynchburg, where they continued to allow the one-gallon outage after we had discontinued it.

Q. What do you mean by that, where they continued the one-gallon outage to the jobbers?—A. There has been a system some years ago of allowing jobbers one gallon out of a barrel, supposed to cover leakage. The gallon was never put in the barrel. That was discontinued. I think that was in effect by all concerns years ago. A barrel which would hold 50 gallons would be marked 49, billed to the jobber at 49, and he would bill it to the trade at 50; it would be marked 50.

Q. In connection with your lubricating-oil business, for example, do you ever come in contact with any matters of overgauging by competitors?—A. Only in lubricating oils; yes, sir.

Q. Tell us about that, please.—A. These Cleveland concerns which I mentioned—the L. C. Carran Company and the Cleveland Oil Company—I made a trip through Floyd County, Virginia, some years ago with my gauge rod. I gauged a good many of their packages and found them overmarked several gallons. Every one of them I gauged was overmarked.

(No cross-examination.)

9181 R. F. EPPERSON, called on behalf of the defendants, being duly sworn, testified as follows:

Direct examination by Mr. ROSENTHAL:

Q. What is your full name?—A. Robert Franklin Epperson.

Q. Where do you live?—A. Bristol, Virginia.

Q. How long have you lived there?—A. I have lived in Bristol eleven years the 17th of last May.

Q. How much of a town is Bristol?—A. It is a twin town. The total population is about 15,000.

Q. What is its twin?—A. Bristol, Tennessee.

Q. What is your business there, Mr. Epperson?—A. I am general salesman for the Standard Oil Company.

Q. And have been for how long?—A. Since April 12, 1901.

Q. You are connected with what branch?—A. The Richmond branch.

Q. You get your orders from there and report there, do you?—A. Yes, sir.

Q. What was your business prior to 1901?—A. I was subagent at Bristol for practically four years.

Q. And before that?—A. I was a tank-wagon driver in Lynchburg from October, 1895, to April 15, 1897.

Q. So you have been connected with the Standard Oil Company in one capacity or another since 1895?—A. Yes, sir; practically 13 years.

Q. You have been general salesman since 1901?—A. Yes, sir.

Q. Through what territory do you travel?—A. I travel in southwest Virginia, the extreme southwest part of the State.

Q. What do you sell?—A. I sell all the products of the Standard Oil Company—refined oils, gasolines, and so on.

Q. To whom do you sell?—A. The merchants.

Q. You have nothing to do with the consumer?—A. No, sir.

9182 Q. And do you sell lubricating oils?—A. Some, not much.

Q. Lubricating products?—A. Yes, sir; I don't sell very much lubricating oil, though. We have a special lubricating man.

Q. That is a mere incident, then, to the general conduct of your business?—A. Yes, sir.

Q. Your principal sales, then, consist of refined oils and gasoline?—A. Yes, sir.

Q. Where do you get your prices from?—A. From the Richmond office.

Q. In what way?—A. In letters.

Q. What is your authority, so far as your right to depart from these prices are concerned?—A. Why, I have to live up to those prices to the letter. I am not allowed to depart from them at all.

Q. Do you mean to say that you are not permitted to exercise your own judgment at all?—A. No, sir, I am not.

Q. You are to take the prices as you get them from your superior officer, the special agent at Richmond?—A. Yes, sir.

Q. Do you know of any instance or instances of a cut or cuts made by your competitors in connection with the sales of lubricating oils in your territory during the time that you have been a general salesman?—A. Yes, sir, I remember two distinctly.

Q. What are they, please?—A. The Atlas Oil Company made a sale to the Raven Fuel Company. The Atlas Oil Company is of Cleveland, Ohio. It made a sale to the Raven Fuel Company,

9183 of Raven, Virginia.

Q. Do you know the connection between the Atlas and the Refining Company?—A. No, sir.

Q. Go ahead, sir.—A. They made a price to them of 10 cents, delivered at Raven, on a black oil, guaranteed in quality the equal of ours, and our price was 9½ and 10 cents; 9½ for Summer Black and 10 cents for Winter Black, at Bluefield, West Virginia, which was our distributing point for that territory, and the freight is a cent and a half a gallon, which made them cut our price right smart, you see.

Q. How much?—A. For Summer Black it would be a cent and a half, and for Winter Black it would be 2 cents.

Q. From a cent and a half to 2 cents a gallon?—A. Yes, sir.

Mr. KELLOGG. When was this?

WITNESS. That was last spring, a year ago.

Q. As late as the spring of 1907?—A. 1907; yes, sir. I saw that bill. That is not hearsay.

Q. You saw that bill. Did the Atlas get the business?—A. Yes, sir.

Q. By reason of that cut?—A. By reason of that cut; yes, sir.

Q. Do you know of any other cut that they made?—A. Yes, sir; they made the same price to the Bondurant Coal & Coke Company, at Pennington Gap, Virginia. They made them a price of 10 cents delivered, guaranteeing the oils equal to ours.

Q. Who were your principal competitors in the sale of refined oil and gasoline, aside from the Standard Oil Company?—
9184 A. The Crystal Oil Refining Company, Cleveland, Ohio; the Brooks Oil Company, Cleveland, Ohio.

Q. The Paragon?—A. The Paragon Refining Company, Cincinnati.

Q. The Atlas?—A. The Atlas Oil Company, Cleveland, Ohio; the Southern Oil & Supply Company, Baltimore, made a price on me once, and the Red "C" Oil Manufacturing Company, of Baltimore.

Q. They competed with you, as I understand, in the sale of your kerosene oil and gasoline?—A. Well, kerosene oil.

Q. How was your oil sold in the main, by barrel or tank-wagon delivery?—A. By barrel. All this competition that I have faced in making sales in those sections has been in barrels.

Q. You sell most of your oil in barrel delivery there?—A. Most of my oil is in barrel deliveries; yes, sir; most of my sales.

Q. Why is that—because of the character of the country?—A. Yes, sir; it is a very mountainous country. I work through the Virginia coal fields.

Q. I would like to have you, if you can, Mr. Epperson, give me specific instances of price cutting on the part of your competitors in your field.

Mr. KELLOGG. State the date, to save asking questions.

Q. During the years that you have been general salesman there. Take up, first, Mr. Fehsenfeld's company, the Southern Oil & Supply Company. Mr. Fehsenfeld was an important witness for the Government in this case.—A. In the fall of 1904 the Southern Oil &
9185 Supply Company wrote to the Blair Grocery Company, Calax, Virginia, asking for their business, offering to meet——

Mr. KELLOGG. Wait a minute. Did you see the letter?

WITNESS. Yes, sir.

Mr. KELLOGG. Have you got it here?

WITNESS. I will recite it.

Mr. KELLOGG. I object to that as secondary evidence. The letter is the best evidence.

Q. Go right ahead.—A. They wrote to them, asking for their business, offering to meet the prices of the three grades of oil that we were selling them, namely, Diamond Headlight, Aladdin, and Carnadine, guaranteeing the quality of their oils to be the equal of ours, and said that they would make them the same prices that we would make them, and place the oil with them on consignment, and would allow the manager, Mr. C. W. Caldwell, 25 cents per barrel as brokerage, which was equal to cutting our price a half cent a gallon.

Q. What did you do?—A. I took up this letter, sent it in to the Richmond office; but we maintained our price. We did not cut our price, and owing to the friendly relations, Mr. Caldwell did not care to change, and they never got any business there at all.

Q. Notwithstanding their offer of a half a cent cut?—A. Yes, sir.

Q. Do you know the case of J. A. Henritze & Brother?—A. Yes, sir. J. A. Henritze & Brother, of Lebanon, Virginia. The Brooks Oil Company, about January, 1907, sold them 5 barrels of Light-
9186 house oil at 13 cents, delivered. Our price was 12¼ on Aladdin, at Norton, Virginia.

Q. How was your Aladdin oil supposed to compare with the Lighthouse oil of the Brooks Oil Company?—A. This Lighthouse oil was guaranteed the equal of our Aladdin oil by the competitor, and so claimed by the purchaser.

Q. Now, explain to us how the cut was brought about in that instance by the Brooks Oil Company.—A. The Brooks Oil Company made this oil, delivered at Norton, Virginia, 13 cents. That is the depot for Lebanon, Virginia. Our price on Aladdin oil was 12¼ at Norton, and the freight was something over a cent a gallon.

Q. 1½ cents a gallon, was it not?—A. Yes, sir; the freight was 1½ cents a gallon, which made them cut our price about three-quarters of a cent.

Q. Did they get the business?—A. Yes, sir.

Q. Away from whom?—A. From the Standard Oil Company. They were customers of the Standard Oil Company.

Q. Do you remember the case of the Dalton Grocery Company at Sylvatus, Virginia?—A. Yes, sir.

Q. Tell us about that, please.—A. In June, 1907, the Dalton Grocery Company asked me for a price on a car of oil. We were selling them Aladdin oil at 12¼, delivered at Sylvatus, and I went to see them. They said my price was not satisfactory, and the Red "C" Oil Manufacturing Company of Baltimore made them a price of 11¾, delivered, on Aurora Safety, I believe, was their brand.

Q. 11¾ delivered?—A. Delivered, yes, sir; on an oil guaran-
9187 teed to be the equal of our Aladdin. They said they would give me the order at the asme price, and I submitted the order to my manager, and he refused it. He would not fill it at that price, and the Red "C" Oil Manufacturing Company got the order.

Q. That is, your superior officer refused to meet the cut that was made by the Red "C?"—A. Yes, sir.

Q. And the Red "C" got the business?—A. Yes, sir.

Q. Away from the Standard?—A. Yes, sir.

Q. Do you know of the case of Milo McBee, who was a salesman for the Brooks Oil Company, was he not?—A. For the Brooks Oil Company; yes, sir.

Q. Do you know Porter & Company, of Castlewood, Virginia?—A. Yes, sir. He came in there and——

Q. Do you know of any cut there made by McBee on behalf of the Brooks Oil Company?—A. Yes, sir. He cut our price about a half a cent a gallon, guaranteeing the oil to be fully the equal of Aladdin.

Mr. KELLOGG. When was this?

WITNESS. That was either in December, 1906, or January, 1907.

Mr. KELLOGG. A half cent?

WITNESS. Yes, sir.

Q. Do you know of any other case where McBee cut the price?—A. Yes, sir. He sold some other parties up at Raven, Virginia, McCall & Company, the Domestic Coal Company, Lighthouse oil, guaranteeing it to be the equal of our Aladdin.

Q. Did he make any cut there?—A. Yes, sir; he sold the oil
9188 there at 12½; to some of them at 12½ and to some of them at 13 delivered. Our price was 12¼, Tazewell, Virginia, with the freight of about 1¼ cents a gallon. I think the freight was 60 cents per package.

Q. Have you in mind any instances of cuts being made by the Paragon Oil Company, of Cincinnati, Ohio?—A. Yes, sir; two.

Q. Tell us about them, please.—A. It was along in the early part of 1907. I found they were selling J. B. Macklin, and Kincaid and Rowlett, of Rose Hill, Virginia.

Q. At what prices?—A. They were making them a price of 12 cents delivered at Rose Hill, and charging $2 for the package, allowing the same price for the package, f. o. b. Rose Hill, and our price was 12¼ Norton, and the freight was about a cent and three-quarters a gallon.

Q. And how much of a cut did that net?—A. That netted half a cent a gallon cut on our market.

Q. Who got the business?—A. The Paragon Refining Company.

Q. Away from whom?—A. From the Standard Oil Company.

Q. By reason of what?—A. By reason of this cut of half a cent a gallon.

Q. Do you know of any cut being made by the Crystal Oil Company at Hiltons, Virginia?—A. Yes, sir; to S. G. Owens.

Q. When was that—in 1905?—A. That was in 1905.

Q. The early part of 1905?—A. The early part of 1905, about spring.

Q. Tell us about that cut?—A. They made them a price of
9189 14 cents, delivered there on 150 W. W. oil, guaranteed fully the equal of our Aladdin oil, and our price was 15¼, delivered at Hiltons, Virginia, on Aladdin oil, shipped from Gate City.

Q. What happened there?—A. We lost the business.

Q. Because of what?—A. Because of the cut of a cent and a half a gallon by the Crystal Refining Company.

Q. About the same time do you know of any other cuts being made by the Crystal?—A. Yes, sir; along just about that same time, while the man was in that section, he sold several parties at Gate City, making a price of 13¼ delivered at Gate City on 150 Water White oil (that is the way it was branded), and our price was 15 cents on

Aladdin, cutting our price a cent and a half a gallon, the oil guaranteed the equal of ours, and we lost the business there.

Q. Can you give me the names of the customers whom you lost by reason of the cut made by the Crystal?—A. I can give you several: W. D. Davidson, T. L. Horton, R. L. Honeycut, P. H. Nichols, and, I think, J. B. Gillin.

Q. Bowlinghead & Sloan?—A. Yes, sir; Bowlinghead & Sloan.

Q. Well, they took all those customers away from you by reason of that cut?—A. Yes, sir; by reason of that cut of a cent and a half a gallon.

Mr. KELLOGG. What year was this?

WITNESS. That was in 1905.

Q. That was in the early part of 1905, as I understand you?—A. Yes, sir.

9190 Q. Do you know of any cuts being made by the Atlas Oil Company of Cleveland?—A. I have never met with but one cut. That was to G. W. Barcy, at Preacher, Va. That was in 1905, too, just before this. I think it was about February.

Q. Tell me about that cut.—A. They made them a price of 13½ delivered, on an oil guaranteed the equal of our Aladdin, and our oil, shipped up there from Big Stone Gap, cost them 13¾. They cut our price a quarter of a cent. Our price was 13 cents at Big Stone Gap, with the freight three-fourths of a cent. That was the way I think it was.

Q. And did they get the business there?—A. Yes, sir.

Q. Do you know of any cut made by the Southern Oil and Supply Company of Baltimore, Mr. Fehsenfeld's company, at Lynchburg, Va.?—A. Yes, sir.

Q. As far back as the time when you were driving a tank wagon, in 1896?—A. Yes, sir; in 1896, when I was driving a tank wagon at Lynchburg.

Q. Tell me about that, will you, please?—A. I was driving the wagon there at that time, and they shipped a carload of oil in there, and they only sold one of my customers who was there, S. D. Blackwell & Co. I do not remember positively what their prices were, or what ours were, but I do know what the difference was that caused us to lose the business. After figuring what they got for the empty package back, the oil cost them half a cent a gallon less than ours did.

Q. Did you lose the business?—A. Yes, sir.

9191 Q. By reason of that cut?—A. By reason of that cut.

Q. And that was when you were on the tank wagon?—A. Yes, sir.

Q. In addition to making these cuts in the market price, did these competitors of the Standard make any other allowances?—A. Well, they make an allowance of a discount. They allow invariably 1 per cent for cash, and our people insist upon net cash. We give thirty days, where the credit is satisfactory, but the competitor always allows 1 per cent for cash in my territory, if that is what you refer to.

Q. That is what I mean, sir. So that in the case of all of your competitors, they allow the trade that you are calling upon a cash discount of 1 per cent?—A. On ten days; yes, sir.

Q. Which is denied them by the Standard Oil Company?—A. Yes, sir.

Q. All of these cuts that you have been speaking of were cuts made by competitors, to customers of the Standard Oil Company, were they?—A. All of them; yes, sir.

Q. Did you ever cut your prices?—A. No, sir. I submitted—I have never weakened in any way; am not allowed to; but in one case I submitted the order of the Dalton Grocery Company.

Q. That you told us of?—A. No, sir; I never have.

Q. You are obliged to adhere to the prices given you by the special agent?—A. I am; yes, sir.

Q. Then, as I understand you, in no instance throughout your territory, during all of the thirteen years that you have been connected with the Standard Oil Company, have you ever known that company in that territory to initiate a price cut?—A. They have not.

9192 Q. It has always been initiated by the competitor?—A. It has.

Cross-examination by Mr. KELLOGG:

Q. Your country is in southwestern Virginia, is it?—A. Yes, sir.

Q. You have very few, if any, tank-wagon stations in that country?—A. We have several, but we do not do much suburban business.

Q. Where are your tank-wagon stations?—A. We have a tank-wagon station at Pulaski, one at Wytheville, one at Marion, and at Bristol, Norton, and Tazewell.

Q. But the country trade you do in a barrel business?—A. Yes, sir.

Q. You do not drive into the country, as they do in other parts of the country?—A. No, sir.

Q. Why is it—because it is mountainous?—A. Yes, sir.

Q. You have how many counties?—A. I have thirteen or fourteen.

Q. During the thirteen years you have been there, there has been very little competition in your country, has there?—A. In the thirteen years I have been in different positions.

Q. You have been in that one territory thirteen years, have you?—A. Well, no; I have been in practically that territory eleven years. I was at Lynchburg two years.

Q. During those eleven years you have had very little com-

9193 petition in that territory, have you?—A. Not a great deal.

Q. Your prices have ranged from 13 to 15 cents a gallon, have they?—A. They have ranged about, at different markets.

Q. About what prices have ranged during those eleven years?—A. Yes, sir, something like that.

Q. 13 to 15 cents a gallon?—A. I don't think hardly 15, but I am not positive.

Q. I think you named 15 several times there.—A. Yes, sir, that is right.

Q. 13 to 15 cents?—A. Yes, sir.

Q. Now, your company was selling the same oil at Lynchburg during the same time at 8¼, 9, 7½, and such prices as that, was it not?—A. I do not know.

Q. What price were they selling at when you were at Lynchburg?—A. I don't remember.

Q. When were you in Lynchburg?—A. I have not worked in Lynchburg since April 15, 1907.

Q. Were you in Lynchburg in 1907?—A. No, sir—1897. I beg your pardon.

Q. And during the year 1897 the prices at Lynchburg were very low, were they not?—A. I do not remember.

Q. Did you ever hear what oil was selling at in Richmond?—A. No, sir.

Q. Never heard?—A. No, sir.

Q. You never heard anything beyond your own territory?—A. No, sir.

Q. Never heard anything about it? Most of those cases you speak of, of cuts in the price, have been since 1905, I be-
9194 lieve?—A. I think so; yes, sir; most of them.

Q. And they run from a quarter of a cent up to a half cent, and in one or two cases three-quarters of a cent?

Mr. ROSENTHAL. That is not his testimony.

Q. Is not that substantially right?

Mr. ROSENTHAL. In many instances they run as high as a cent and a half or two cents.

Q. Name an instance where they ran two cents.—A. At Gate City and at Hilton's.

Q. What was your price?—A. Our price at Gate City was 15 cents on Aladdin.

Q. And what was the price of your competitor?—A. The price of my competitor was 13½ at Gate City.

Q. What date was that?—A. It was in 1905.

Q. That is, a cent and a half. Were they selling in barrels, and you in barrels?—A. Yes, sir.

Q. Both in barrels. Name one of two cents.—A. I have not named any of two cents.

Q. That is what I thought. A cent and a half is the highest cut that you recall?—A. That I recall; yes, sir.

Q. And that was off of a 15-cent price, was it not?—A. Yes, sir.

Q. And your company were selling oil, so the record shows, for 8 cents in Richmond. What was the freight from Richmond to your place?—A. I do not know.

Q. Where did you get your oil from?—A. I don't remember.

Q. Don't know where it came from?—A. I am not positive; no, sir. We draw it from different places.

9195 Q. Where do you get it from now?—A. Well, different stations—draw it from different places. I am not positive.

Q. But where is it shipped to you from—what is the shipping point?—A. I am a salesman. I don't know.

Q. You don't know where the oil comes from?—A. I am not positive. It is shipped from different places.

Q. Is it Ohio oil or Pennsylvania oil?—A. I don't know.

Q. You don't know anything about it? Well, the Brooks Oil Company is a Standard Oil company, isn't it?—A. I don't know.

Q. The Paragon oil is another of the Standard's, isn't it?—A. I do not know. It is the Paragon Oil Refining Company.

Mr. CAMPBELL. That is Mr. Ward's company.

Q. The record in this case shows that the Paragon Oil Company and the Brooks Oil Company were for a long while secret companies of the Standard Oil.

Mr. ROSENTHAL. Oh, well, you are as mistaken about that as you are about a good many other things.

Q. Not at all. Mr. Collings swore to it. I don't know that we can believe Mr. Collings; perhaps he is not telling the truth, but he swore to it.

Mr. ROSENTHAL. We are talking about the Brooks Oil Company, of Cleveland, here.

Q. It is the Paragon Oil Company of Cincinnati, is it?—A. The Paragon Oil Refining Company of Cincinnati; yes, sir.

Q. Now, you take that cut of a cent and a half at Gate City. Was that for oil delivered in Gate City—13½ cents?—A. Yes, sir.

9196 Q. How do you know that?—A. I saw the bills.

Q. You say the bills?—A. Yes, sir.

Q. Did the bill state on its face, "Oil delivered?"—A. The oil was shipped there—yes; I am positive it did. The oil was shipped there in a car.

Q. The oil was shipped there in a car—well, I have no doubt of it. But the bill that was rendered for the oil was so much oil at so much a gallon, wasn't it?—A. Yes, sir; and I also saw the carbon copies of the salesman before the oil came in.

Q. Before the oil came in?—A. Yes, sir.

Q. And that said so much oil at so much a gallon?—A. Delivered.

Q. Delivered.—A. These orders are printed "f. o. b. ——" and then you write in the word where.

Q. F. o. b. where?—A. The order is printed, you know, "f. o. b." and then he writes in the words "Gate City, Virginia."

Q. F. o. b., Gate City, Virginia?—A. Yes, sir.

Q. And you know the customer did not pay any freight on that oil?—A. Yes, sir.

Q. How do you know that?—A. If he paid the freight, I guess he would have deducted it.

Q. What?—A. Why, he surely did not pay any freight on it.

Q. How do you know he didn't?—A. I don't suppose he would if he bought it delivered.

Q. That is merely your supposition, is it?

Mr. ROSENTHAL. Not at all.

9197 Q. You don't know anything about it, do you, of your own knowledge?—A. If you buy a suit of clothes of a man, and he is going to sell it to you for $20, are you going to pay him $25 for it?

Q. I ask you if you know of your own knowledge that the merchant did not pay the freight on that oil?—A. I am positive of it.

Q. You know that of your own knowledge, do you?—A. I think so.

Q. Or is that simply your conclusion?—A. That is my conclusion.

Q. Did the merchant tell you he did not pay the freight?—A. He said he bought the oil delivered, and there was his ticket for it. He showed it to me.

Q. He bought it delivered, but do you know whether he paid the freight? Of course it would be delivered to him.

Mr. ROSENTHAL. Of course it would not, if somebody did not pay the freight.

Q. Now, you take this Southern Oil & Supply Company, which shipped a carload into Lynchburg in 1896. You say they sold one of your customers at half a cent under your price?—A. Yes, sir.

Q. What price did they sell him at?—A. I said I did not remember the prices there.

Q. How is it you happen to remember a half cent, if you don't remember the price?—A. I just remember at the time figuring it with him.

9198 Q. Figuring it with whom?—A. With the merchant.

Q. Do you recollect that he told you that he got it at half a cent less than your price?—A. Yes, sir.

Q. What grade of oil?—A. An oil guaranteed the equal of ours. I don't remember the brand.

Q. You don't know anything about it, whether it was selling at the same price as yours, or whether it was not? (No audible answer.)

Q. Now, let us see. This Paragon Oil Company, in 1907, sold a merchant at Rose Hill in barrels at 12 cents you say?—A. Yes, sir.

Q. Delivered?—A. Yes, sir.

Q. How much did he receive back for the barrels?—A. They charged him $2 for the package and allowed him $2 for the package f. o. b. Rose Hill.

Q. Then he paid 12 cents straight?—A. Yes, sir.

Q. Now, you were selling, yourself, at what price?—A. Selling mine at 12¼, Norton, Virginia.

Q. How far was that away?—A. I don't know the exact distance—about 50 miles.

Q. The freight was, how much?—A. A cent and three-quarters a gallon.

Q. How much was the freight per hundred?—A. 22 cents.

Q. 22 cents a hundred?—A. That is my recollection.

Q. How many hundred pounds in a barrel?—A. Four hundred.

Q. Now, how much did you get for your packages, your barrels?—A. We do not charge for our package.

9199 Q. You gave him the barrel?—A. Yes, sir.

Q. Those are worth a dollar a barrel, are they?—A. No, sir; we do not pay that much for them.

Q. So you sold him the oil at 12¼ cents and gave him the barrels, and the other man sold his at 12 without the barrels?—A. Yes, sir.

Q. How much would the barrel amount to?—A. The barrel would net him about 2 cents a gallon.

Q. So, deducting that from your price, you sold cheaper than he did, didn't you?—A. No, sir; I did not.

Q. Why not?—A. Because I had to stand the freight on it down there.

Q. That is a cent and three-quarters, you said?—A. Yes, sir.

Q. The barrel is 2 cents, isn't it?—A. Yes, sir.

Q. You sold at 12¼?—A. Yes, sir.

Q. That would make your price exactly the same, wouldn't it?—A. (After hesitating.) I guess our price at that time was not 12¼, then.

Q. You have testified to that: Paragon Oil Company, 1907, Rose Hill; yo[illegible] 12¼, with the freight, 1¾ added. Now, is that correct, or is [illegible]? I took it down at the time.

Mr. ROSENTHAL. What was the price, according to your recollection?

WITNESS. In 1907, it seems to me, it was 12¼. It was either 12¼ or 12¾.

Mr. ROSENTHAL. 12¼ or 12¾?

WITNESS. Yes, sir.

9200 Q. Well, was it 12¼, as you have testified, or wasn't it?—A. Did I testify 12¼?

Q. 12¼.—A. Then I think it was 12¼. It was either 12¼ or 12¾. I thought it was 12¼.

Q. 12¼ and 1¾ for freight.—A. Yes, sir.

Q. That makes how much?—A. 14.

Q. Now, the barrel, you say, was 2 cents?—A. Yes, sir.

Q. That would leave 12 cents for your oil, wouldn't it?—A. Yes, sir.

Q. And he sold his at 12 cents, you say?—A. Yes, sir; he sold his at 12 cents.

Q. Then he did not cut the price, did he; and you were mistaken, weren't you, in your figures about it being a cut?—A. Well, he allows a discount and we do not.

Q. You did not mention that before, did you?—A. I think I have mentioned that they allowed a discount.

Q. Allowed a discount of how much?—A. 1 per cent for cash, 10 days.

Q. How much was that a gallon?—A. It would take a pretty good mathematician.

Q. Pretty fine figuring, isn't it?—A. Yes, sir.

Q. As a matter of fact, he did not cut your price at all, did he?—A. You might say about 6 cents a barrel.

Q. You made a mistake, then, didn't you?

Mr. ROSENTHAL. He made a mistake if it was 12¼, but not if it was 12¾.

Mr. KELLOGG. I took his testimony. He said it was 12¼.

9201 Now, let us see some of these other places.

Mr. CAMPBELL. Where was that place?

Mr. KELLOGG. Rose Hill, he testified, 12¼. I will ask the stenographer to turn back and read it, if you wish.

Q. Now, this man Hultze, is that his name—of Lebanon, Virginia?—A. No, sir.

Q. What is his name?—A. Hultze; I have not mentioned such a name.

Q. Or Hartze—who was it you testified about at Lebanon, Virginia?

Mr. ROSENTHAL. You have made the same mistake on that as you did on that 12¼ price.

Mr. KELLOGG. I will ask the stenographer to turn back to the Rose Hill price and see whether I made a mistake or not.

The stenographer read as follows: "A. They were making them a price of 12 cents delivered at Rose Hill, and charging $2 for the package, allowing the same price for the package, f. o. b. Rose Hill, and our price was 12½ Norton."

(The stenographer inadvertently read "12½." The figures in the shorthand notes are "12¼.")

Mr. ROSENTHAL. Is that correct?

WITNESS. No, sir. I either said 12¼ or 12¾. I have not said 12½, because we have not had a 12½ market at Norton.

Q. I took it down 12¼.—A. I think 12¼ is right, sir.

Q. Well, it was 12¼, was it?—A. I think so; yes, sir.

Q. Now, on thinking it over, you think, allowing for the

9202 barrel, their price was the same?—A. Well, it would figure the same, with the exception of the discount; yes, sir.

Q. Now, let us take one or two more. What is this man's name at Lebanon, Virginia?—A. Henritze.

Q. The Brooks Oil Company sold him, didn't it?—A. Yes, sir.

Q. In 1907?—A. Yes, sir.

Q. At 13 cents delivered?—A. Yes, sir.

Q. Is that right?—A. Yes, sir.

Q. Your price was what?—A. Our price was 12¼, Norton.

Q. How much was the freight?—A. The freight was about a cent and a half a gallon.

Q. How do you know that the Brooks Oil Company sold at 13 cents delivered?—A. I saw the bill.

Q. Did the bill state on its face that it did not include freight or did include freight?—A. It said, "less freight."

Q. Less freight from where?—A. The bill of course reads off: "Cleveland, Ohio," at the top of the bill, and the bill says, "less freight." Of course it means less freight from shipping point.

Q. Was it shipped from Cleveland or was it shipped from some other place?—A. I judge it was shipped from Cleveland; I don't know, sir.

Q. You did not see the way bills?—A. No, sir.

Q. The bill would simply be a letter head or billhead containing the company's bill and the price, wouldn't it?—A. Yes, sir.

9203 Q. And that would not indicate where it was shipped from, would it?—A. No, sir, not necessarily.

Q. Now, do you know whether the Brooks Oil Company has any refinery at all at Cleveland?—A. I do not.

Q. You don't know anything about it?—A. No, sir, I do not.

Q. Who was this Miles McBee?—A. Milo McBee. He is a man who used to sell oil.

Q. For whom?—A. Various different concerns.

Q. What concerns?—A. Traveling at that time for the Crystal Oil Refining Company.

Q. At what time?—A. Along about December, 1906.

Q. For the Crystal Oil Company?—A. Yes, sir.

Q. Is that a Standard concern?—A. I do not know.

Q. You said he cut your price half a cent?—A. Yes, sir.

Q. Where?—A. At Raven, Virginia.

Q. At what price did he sell it?—A. He made a price there—well, he figured in some cases probably a little more—he made a price there of 12½ to some of the trade, and some of them 13 cents, is my recollection.

Q. 12½ to some of the trade, and 13 to some?—A. Yes, sir.

Q. How do you know that?—A. I saw the bills.

Q. What was your price?—A. Our price was 12¼, Norton.

Q. Was his 12½ delivered?—A. Yes, sir.

Q. How do know?—A. It was a prepay station.

Q. It was a prepay station?—A. Yes, sir.

Q. You don't know that the purchaser did not pay the freight on it, do you?—A. He said he did not.

9204 Q. You only know from what he said?—A. Yes, sir.

Mr. ROSENTHAL. He knows from that and he knows from the fact that it was a prepay station.

Q. The fact that it was a prepay station did not determine who ultimately would pay the freight in the settlement for the oil?—A. I think it did, when they sent him a bill for the oil, and the oil came prepaid.

Q. How much did he sell there?—A. I don't know positively, but I think about 4 barrels.

Q. Is that all?—A. That is all I remember there, sir.

Q. It was a serious matter, wasn't it? Now, you say you never cut prices?—A. Yes, sir.

Q. You raised and lowered prices very frequently, didn't you?—A. I did not.

Q. The price remained the same during all the years?—A. I don't know whether it remained the same or not, but I did not have anything to do with the changing of the price.

Q. Who did?—A. The Richmond office.

Q. They did it very often?—A. I don't know—no; not very often.

Q. Well, then, they did it frequently?—A. No; I don't think that it switched about much.

Q. Did not switch about much—two or three times a month?—A. Oh, no, sir.

9205 WILLIAM LE ROY BLACKWELDER, called on behalf of defendants, being duly sworn, testified as follows:

Direct examination by Mr. ROSENTHAL:

Q. What is your name?—A. William Le Roy Blackwelder.

Q. Where do you live?—A. Charlotte, North Carolina.

Q. Near what large city is that?—A. Well, the largest city, I suppose, is Atlanta—the nearest large city—Atlanta, Georgia; or Richmond. I suppose it is about the same distance from either place.

Q. What is your business?—A. Agent and general salesman for the Standard Oil Company.

Q. You mean subagent and general salesman?—A. Subagent and general salesman; yes, sir.

Q. Where are you subagent?—A. Charlotte.

Q. How much of a town is that?—A. Well, we claim 40,000 inhabitants.

Q. Have you charge of the station there at Charlotte?—A. Yes, sir.

Q. In addition to that you act as general salesman?—A. Yes, sir; at Charlotte and the immediate territory.

Q. To what office do you report?—A. The Wilmington office.

Q. Wilmington, North Carolina?—A. Yes, sir.

Q. Who is in charge of that office?—A. W. R. Barksdale.

Q. He is your superior officer, is he?—A. Up to September 1st; yes, sir.

Q. What kind of oil did you sell for the Standard Oil Com-
9206 pany?—A. Refined oil, gasoline, and some lubricating oil; not much lubricating oil.

Q. And almost entirely in and around Charlotte?—A. Yes, sir.

Q. Where do you get your prices from?—A. From the Wilmington office.

Q. And in what way?—A. By mail, usually; sometimes by telegraph.

Q. Is there an open market price there for refined oil?—A. Yes, sir; only.

Q. What is that—the tank-wagon price?—A. Well, the tank wagon and barrel price both. We have both prices.

Q. You have tanks there at Charlotte?—A. Yes, sir.

Q. How many storage tanks?—A. You mean for refined oil alone?

Q. Yes.—A. We have three.

Q. And how many for gasoline?—A. One.

Q. Who were your principal competitors in the sale of refined oil in that territory?—A. The Red "C" Oil Manufacturing Company of Baltimore.

Q. And for how long has that company been your principal competitor?—A. Something like three or four years.

Q. Do they have a tank wagon trade through there?—A. No, sir.

Q. Entirely a barrel trade, is it?—A. Entirely barrel.

Q. In working through your territory, have you come across any cases of price cutting by the Red "C?"—A. Yes, sir.

Q. Frequently?—A. Yes, sir.

Q. In connection with the sale of refined oil and gasoline?—
9207 A. Refined oil and gasoline.

Q. I presume that you can give us specific instances of that, can you not?—A. I think so.

Q. Go back as far as January, 1904. Can you give us an instance of price cutting on the part of the Red "C" Company in connection with Sunbeam oil shipped to Charlotte?—A. The Red "C" salesman came there and sold a car of Sunbeam oil at half a cent under our price.

Q. Under your price for what?—A. For Diamond White Headlight.

Q. How does your Diamond White compare in the trade with the Sunbeam oil?—A. It is supposed to be about the same test oil.

Q. How does the Red "C" represent the Sunbeam to the trade, as compared with the Diamond White?—A. As a better oil than the Diamond White.

Q. As the better oil of the two?—A. Yes, sir.

Q. You say the cut there was half a cent under your price?—A. Half a cent; yes, sir.

Q. How much oil did they ship in at that cut?—A. Well, they always shipped a car at a time—in other words, 60 barrels.

Q. Was that sold to different parties?—A. Yes, sir.

Q. Was it consigned to these different parties, or to only one person?—A. Well, it was consigned to one man, although invoiced to the parties who made the purchase—that is, most of the time; that is, most of the cars that were shipped.

Q. What was your price at that time on Diamond White?—A. As well as I can recall, it was 12 cents.

9208 Q. What price did the Red "C" sell the Sunbeam for?—A. Eleven and one-half.

Q. Do you know of another instance, in January, 1904, at the same place, in connection with the sale of Sunbeam oil, where they made an allowance for empty barrels that in effect constituted a cut in the price?—A. Yes, sir.

Q. Tell us about that, please.—A. My recollection is that they allowed $1.10 for each barrel. Prior to that time they had only been

allowing $1. Of course, the addition of 10 cents made an additional credit allowance, so to speak.

Q. What did you find that the Red "C" had sold that oil for?—A. Well, it was about the same as the other, as well as I can remember, something like that.

Q. And how much of a cut did it represent under your price, if at all?—A. I think it brought it down to about $10.60 or something like that. In other words, it brought their own price down lower by giving more for the barrel.

Q. It brought their price down to about 10.60, while your price was what?—A. Eleven.

Q. Do you know of an instance, in January, 1905, where their agent, Biggers, sold some of their oil as low as 10 cents?—A. Yes, sir.

Q. Tell us about that circumstance.—A. The way he got at that 10-cent price was, he gave a portion of his commission.

Mr. MORRISON. What is that?

WITNESS. He gave a portion of his commission, in order
9209 to make that price to anyone that would take a quantity and pump the oil out themselves; that is, pump the oil from the barrel into the tank themselves and take a 5-barrel lot.

Mr. MORRISON. The agent made that up out of his commission, you say?

WITNESS. Supposed to be that way; yes, sir.

Q. And that represented a cut of how much?—A. About half a cent. That price, as a rule, predominated, about half a cent.

Q. Do you know of any gasoline cuts made by the Red "C" Oil Company in October, 1905?—A. Yes, sir.

Q. To merchants at Fort Mill, South Carolina?—A. Yes, sir.

Q. Tell me about that.—A. The Red "C" offered gasoline shipped from Norfolk, Virginia, I think, at about 13 cents delivered at Fort Mill, against our price of 14 or 14½–16½ in barrels f. o. b. Charlotte.

Q. Well, which was it, 14 or 16½?—A. Sixteen and one-half.

Q. They offered theirs at how much?—A. I think it was about 14.

Q. F. o. b. what?—A. F. o. b. Norfolk, shipped from Norfolk.

Q. What was the freight between Norfolk and Fort Mill?—A. Something like 3 cents a gallon, perhaps as much as 4; I don't know just what the freight difference is.

Q. What was the freight between Charlotte and Fort Mill?—A. Seventeen cents per hundred, Charlotte to Fort Mill,

Q. How much of a cut would that represent per gallon by the Red "C"?—A. Something like 2½ cents.

9210 Q. 2½ cents a gallon——A. I think so.

Q. At Fort Mill?—A. Yes, sir.

Q. Do you mean the net cut was 2½ cents, or was the barrel to come out of that yet?—A. It would be net.

Q. A net cut of 2½ cents?—A. Yes, sir.

(An adjournment was here taken until Thursday, September 17, 1908, at 10.30 o'clock a. m.)

9211 ROOM 715, CUSTOM-HOUSE, NEW YORK CITY,
Thursday, September 17, 1908—10.30 a. m.

The hearing was resumed before the special examiner, Hon. Franklin Ferriss, at the above time and place.

Present: On behalf of the petitioner, Mr. Frank B. Kellogg, Mr. Charles B. Morrison; on behalf of the defendants, Mr. Moritz Rosenthal, Mr. F. L. Crawford, Mr. Douglas Campbell.

WILLIAM LEROY BLACKWELDER called, and his direct examination resumed, as follows:

By Mr. ROSENTHAL:

Q. Do you know of any case of price cutting at Fort Mill, South Carolina, by the Red "C" Oil Company, in October, 1905?—A. Yes, sir.

Q. Please state what that was.—A. On gasoline they made a delivered price there of 15 cents, against our price of 16½ delivered there.

Q. Did they get any trade by reason of that cut?—A. They sold one bill, I think, that I remember of.

Q. Your price was 17 cents where?—A. Charlotte.

Q. F. o. b. Charlotte?—A. Yes, sir.

Q. And the price which they made at Fort Mill was what?—A. Delivered at Fort Mill was 15 cents.

Q. And what was the freight from Charlotte to Fort Mill?—A. 17 cents per hundred.

9212 Q. That is about a cent a gallon?—A. Nearly a cent and a half. 68 cents would be the cost of a barrel.

Mr. MORRISON. It is a cent and $\frac{36}{100}$.

Q. So they cut your price 2 cents and delivered the gasoline at Fort Mill in addition?—A. Yes, sir.

Q. Making a cut of something over 3 cents—is that right?—A. No; the real cut was but about a cent and a half. You know the barrel figures in there.

Q. You mean the return of the barrel is figured in there?—A. Yes, sir. It was 15 and 16½, so there was only a cent and a half cut.

Q. Do you know of any cut made by the Red "C" in November, 1905?—A. There were some shipments there to Charlotte and some to other points.

Q. Do you know of any cut made by the Red "C" Oil Company to the Mooresville Furniture Company at Mooresville, North Carolina, in 1905?—A. That was on benzine.

Q. What was that?—A. They made a price of, I think it was 13½ delivered there in bulk, and our price, I think, figured about 14 or 14½ delivered there in bulk.

Q. Who got the business?—A. They got the business.

Q. By reason of that cut?—A. By reason of a lower price.

Q. Did they subsequently make a contract with the Mooresville Furniture Company?—A. Yes, sir; some months later they made a contract.

Q. For what?—A. Benzine.

Q. At what price?—A. I think it was 14½ cents.

9213 Q. Delivered?—A. Delivered; yes, sir; in bulk.

Mr. MORRISON. How does this witness know this?

Mr. ROSENTHAL. I will show that in a minute.

Q. Against your price of what?—A. 16½.

Q. How do you know that?—A. Well, I know what my prices were, the prices that were given to me to dispose of my—my market price; and the man that was manager of the business there told me that that was the price that he had made the contract for, and that they made a contract with the Red "C."

Q. That is, the manager of the Mooresville Furniture Company?—A. The manager, or proprietor, rather. He is the proprietor of it.

Mr. MORRISON. I move to strike that out as hearsay.

Q. Do you know of any other instances of price cutting in your territory by the Red "C"?—A. Well, they shipped a car of oil there to Charlotte occasionally.

Q. I can not understand you.—A. I say they shipped a carload of oil to Charlotte and some to Mooresville.

Q. They shipped it at what price?—A. The price at that time ranged about 10 or 10½ cents.

Q. Their price?—A. Yes, sir.

Q. What was your price?—A. About 11; always about half a cent above their price, and when the prices were the same they would discount.

Q. Did you ever cut their price in the market?—A. No, sir.

Q. What I mean by that is, did you ever, after having learned what their price was, go out and cut that price in order to get the trade?—A. No, sir; I had not the authority.

9214 Q. You had no authority to do that?—A. No, sir.

Q. Aside from your authority to do it, did you ever do it?—A. No, sir.

Q. Did you ever know of its being done in your territory?—A. No, sir.

Q. Who, then, if any one, always cut the price in competition with you in that territory where you were doing business?—A. Well, the competitor (the Red "C" was generally the competitor) always cut the price.

Q. Were you in business there before the Red "C" came in?—A. Yes, sir.

Q. And before most of these if not all of these other competitors came into the field?—A. Why, yes, sir.

Q. Who had the business in the first instance?—A. We had it.

Q. That is, the Standard Oil Company?—A. Naturally, yes, sir; the Standard Oil Company.

Q. Do you know of any cases where the Red "C" gave 60-gallon tanks——A. Yes, sir.

Q. Without receiving pay therefor, to the merchants?—A. Yes, sir.

Q. Name those cases, please.—A. One was W. M. Crowell, Charlotte, North Carolina. Another was the Brown-Knox Mercantile Company, Davidson, North Carolina, and another J. L. Choat & Company, Huntersville, North Carolina.

Q. What did the Red "C" do there in those instances?—A. They gave a tank with an order for 10 barrels of oil.

Q. A tank worth how much?—A. Well, it was a 60-gallon
9215 tank, presumably worth about $5.00.

Q. Have you ever come across any cases of overgauging by the Red "C"?—A. Yes, sir.

Q. Can you name them?—A. Parties whose barrels I gauged.

Q. State how you ascertained that their barrels were overgauged.—A. I used the gauge rod and gauged 24 barrels. Out of the 24 gauged 23 were short; an average gallonage short of 2½ to the barrel, or a total shortage of 57 gallons, or a value in money of $5.67. The parties who had the barrels I gauged—I don't know whether I can just call all the different parties or not, but a few of them are these: N. M. Wallace, L. W. Austin, Surratt & Blakeley, Davis & Barley, E. A. Moffitt, R. A. Beattie, and J. W. Daniels. I don't think I recall any more just now.

Q. Did you name Mr. Youngblood?—A. No, sir; I did not. Mr. Youngblood was one of them, however.

Q. S. H. Youngblood?—A. S. H. Youngblood; yes, sir.

Q. L. W. Austin?—A. L. W. Austin was one.

Q. J. G. Monahan?—A. Yes, sir.

Q. Well, there were how many all told—23 barrels?—A. 24 barrels in all, but there were 23 that gauged short.

Q. Who gauged those barrels, you?—A. I did it myself; yes, sir.

Q. How did you gauge them?—A. With a gauge rod.

Q. Accurately?—A. Yes, sir.

9216 Cross-examination by Mr. MORRISON:

Q. When did you go to Charlotte?—A. 1886.

Q. Twenty-two years ago?—A. Yes, sir.

Q. When did you go into the oil business?—A. In October, 1898.

Q. In what capacity?—A. Agent.

Q. Agent for what?—A. The Standard Oil Company.

Q. Where?—A. Charlotte, North Carolina.

Q. And you have been there in that same position ever since, have you?—A. Yes, sir; will have been eight years the 20th of October.

Q. You were agent and general salesman, weren't you?—A. Yes, sir.

Q. Were you on the road any?—A. Part of the time I was on the road.

Q. How long have you had charge of the station at Charlotte?—A. Eight years.

Q. I think you said you get your prices from Wilmington?—A. Yes, sir.

Q. That is an agency of the Standard Oil Company, I suppose?—A. Yes, sir.

Q. You get them sometimes by letter and sometimes you get them by telegram?—A. Yes, sir.

Q. When you are on the road are you ever notified by telegram or letter to change your price, either to raise it or lower it?—A. No, sir; not when I am on the road. I naturally would not get a wire while I am out, any more than I might out on the road.

9217 Q. But the prices there do change on the different grades of oil frequently, do they not?—A. Well, general declines or a general change.

Q. Yes; that is what I mean. That is, you get authority frequently to change the price a quarter cent or a half cent or a cent, don't you?—A. Just general changes are what I got.

Q. What is that?—A. Just general changes—a general decline or advance in the market.

Q. Yes; I understand that. The question is, whether or not you frequently get directions to make a general change?—A. No; not very frequently.

Q. How often?—A. It might be several times in a year, something like that.

Q. Sometimes several times in a month, isn't it?—A. No, sir; I don't think so.

Q. It never happened that you ever had more than one price in one month?—A. I don't think so.

Q. There is a change, is there not, as often as once a month on an average, take it year after year?—A. I might get a change in price on the 15th of the month or some time during the month, and of course that would give me two prices in one month, but then there would not be two changes in one month.

Q. Sometimes you get orders to lower the price and sometimes you get orders to raise it, I suppose?—A. Yes, sir; I suppose different times that is so.

Q. Now, these orders came to you from what office did you say?—A. The Wilmington office.

9218 Q. And you would immediately put them into effect?—A. Yes, sir.

Q. You don't know why those changes were made?—A. No, sir; not supposed to know—we don't know.

Q. You have nothing to do with the fixing of the price?—A. No, sir.

Q. You don't know what it costs at the refineries?—A. No, sir.

Q. You don't keep any track of the cost of crude?—A. No, sir.

Q. You just simply carry out orders that are given to you?—A. Yes, sir.

Q. And you know nothing of the reasons back of them?—A. No, sir.

Q. Do you keep the company posted on what your competitors are doing?—A. Well, I—yes, sir.

Q. If you find the Red "C" is making a cut, or anybody else is making a cut, you notify somebody, don't you?—A. Yes, sir.

Q. Whom do you notify?—A. My superior officer in the main office.

Q. You aim to keep him posted on everything that you can learn concerning the trade of your competitors?—A. Yes, sir.

Q. You are in frequent correspondence with him?—A. On various things, yes, sir.

Q. If there is a new company about to start in in some town where you have had no competition before, do you notify anybody of that?—A. Yes, sir.

Q. So that your superior officer knows whenever there is a
9219 new company preparing to start into a town; that is, if you are able to find it out?—A. Usually so.

Q. If you see tanks being put up there by some oil company, you notify your superior officer, do you not?—A. Well, we are supposed to.

Q. And that is all you have to do with it is simply to give this information?—A. Oh, no.

Q. How is that?—A. I have other duties to do. That is not altogether what I am working for the Standard Oil Company for.

Q. Oh, I don't mean that. I mean that is all you have to do with that particular thing is to notify your superior officer?—A. Yes.

Q. What territory do you cover?—A. Charlotte and the immediate vicinity. I only have about two points out of Charlotte that I make.

Q. What two points do you make outside of Charlotte?—A. I make Fort Mill. I go as far out as Fort Mill.

Q. How far out is that?—A. Eighteen miles from Charlotte.

Q. And what is the other?—A. Mooresville.

Q. Is that on the same line of railroad?—A. It is on the same system. It is not on the same line, though.

Q. All you know about these orders to raise or lower prices is confined to your district, isn't it?—A. Yes, sir.

Q. You don't know what they are doing in other districts?—A. No, sir.

9220 Q. Keep no track of that at all?—A. No, sir.

Q. When you speak, then, of a general change, you mean a general change throughout your district, which is Charlotte and these other two points?—A. Yes, sir; points that I go to.

Q. Have there been any new companies coming into your territory within the last eight years?—A. There have been some companies coming in there.

Q. What companies?—A. The Red "C" is one.

Q. That was there more than eight years ago, wasn't it?—A. Not to my knowledge, it was not. I don't know.

Q. When did the Red "C" first appear in your territory, to your knowledge?—A. It was about 1903 or '4, something like that; probably about 1904, the first knowledge I had of it being there.

Q. Then up until that time you had no competition in Charlotte?—A. Not to amount to anything. We had some there, not much.

Q. What other competition did you have there?—A. Leonard & Ellis were there.

Q. Were they selling illuminating oils?—A. Yes, sir.

Q. Their competition did not amount to much?—A. No, sir.

Q. Anybody else competing with you there before that?—A. Not on refined oil.

Q. What were you selling refined oil for in 1902?—A. I don't know exactly; somewhere about 10 cents, I reckon.

Q. Well, you reckon. Do you know anything about it?—A.
9221 I could not positively state, eight years ago, or six years ago what it was. That was about it.

Q. You don't remember what the prices were in 1901, do you?—A. Well, just a part of the year 1901 I was in the office. I would not know much about 1901. Part of 1901 I worked inside, in the office.

Q. Do you know what the prices were?—A. I worked inside.

Q. Do you know what they were in 1900?—A. No, sir; I do not.

Q. Don't remember about that. Do I understand you to say that in lowering and raising the prices, that the Red "C" lowered or raised at identically the same times you did?—A. They always managed to be about half a cent cheaper than we were.

Q. If they were half a cent cheaper than you were, and you got orders to lower the price, then you would come down to them, wouldn't you, if it was half a cent?—A. Not always.

Q. No, but sometimes?—A. Perhaps it might have been so, but sometimes there would be a general decline in the price.

Q. There were times when you were selling at the same price, were there?—A. Yes, sir.

Q. Suppose you got an order then to raise the price, then you would be selling above them, wouldn't you?—A. Yes, sir.

Q. Would they come right up with you, raise at the same time?—A. They generally stay about half a cent under. I don't know whether they would have to raise their price or lower it, or come to our price.

Q. When you were selling at the same price, then if you got an order to reduce the price, you would go below them, then, wouldn't you?—A. Well, they would have to reduce then, they
9222 always did.

Q. They would have to come down to your price then?—A. They would reduce their price half a cent under.

Q. Every time?—A. Usually the case.

Q. Do you say that that was always so, that whenever you went down, they went down under you?—A. Yes, sir.

Q. How is that?—A. Yes, sir.

Q. Never failed?—A. Well, they always managed to get under, some way, either by paying more for the barrels or discounts, or giving parties a commission, or something.

Q. And whenever you raised the price, they would follow you up?—A. Yes, sir.

Q. So that you fixed the price there, and they followed you?—A. No, not necessarily that at all.

Q. Well, who did fix the prices there? Did the Red "C" make the market price, or did you make the market price there?—A. Well, I don't know about that.

Q. How?—A. We had our price, and they——

Q. And they had theirs?—A. And they had theirs, as far as I know.

Q. You did not pay any attention to their price when you were raising or lowering yours, did you?—A. No, sir.

Q. You raised and lowered your price on orders from the office?—A. Yes, sir.

Q. Regardless of what they were selling for?—A. Yes, sir.

Q. And if you were ordered to reduce your price, and that brought you below their price, you did not pay any attention
9223 to that, did you?—A. No, sir; that was none of my business at all.

Q. That was none of your concern; and the same if you were ordered to raise it, and it went away above their price, that was none of your concern?—A. None whatever.

Q. So when you say then that you never cut the price, I suppose you mean that you never cut your general market price in your territory; is that it?—A. Well, we had changes in our price in a general way.

Q. I know you had changes, but what you mean by saying that you did not cut the price, is that you did not go to one customer and sell to him for less than you sold to another?—A. No, sir; we did not.

Q. That is what you mean, isn't it?—A. No.

Q. What do you mean when you say you did not cut the price?—A. We had the same price for everybody, regardless of sex or color, and when we wanted to raise our price, we raised it, regardless of the Red "C" or anybody else, and the same way when we wanted to lower it.

Q. I understand you, yes. Now, did you ever have any written contracts with any of the dealers there for the sale of oil?—A. What kind of oil?

Q. Any kind of oil.—A. Yes, sir; lubricating oils.

Q. Had written contracts, had you, for illuminating oils?—A. No, sir.

Q. Benzine or gasoline?—A. When I first went with the company it was customary to have a contract on gasoline——

Q. A written contract?—A. Gasoline that was used for
9224 power in gasoline engines.

Q. You were delivering illuminating oils from tank wagons, weren't you, in Charlotte?—A. Yes, sir.

Q. And in the other two towns were you? The tank wagon went out to these other two towns?—A. Yes, sir.

Q. How was the Red "C" delivering?—A. Delivering in barrels.

Q. Tank-wagon delivery is preferable, isn't it?—A. In some cases it is.

Q. And where your competitor, the Red "C" Oil Company, sold there who hauled the barrels from the depot to the stores?—A. Well, different places in different ways.

Q. I mean in Charlotte now.—A. He always had this man that handled his account there to hire somebody to do it, usually some drayman.

Q. Do you know who paid for that?—A. The hauling, you mean?

Q. Yes.—A. Why, I think the agent was allowed so much——

Q. I am not asking you for an opinion. I want to know whether you know.—A. I know that on some occasions the salesman made a contract with the drayman, at so much a barrel, to deliver the oil. I know, on the other hand, of other cases where the agent assumed the responsibility for the charges.

Q. So that would make a difference in the price, wouldn't it?—A. Necessarily, by whatever the marketing cost.

Q. Is not this true, that the dealer will always pay a little more for oil delivered to him from a tank wagon than he will to bother with barrels?—A. No, sir, it is not.

Q. He will not pay any more?—A. No, sir, not in our place.

9225 Q. Just as soon handle it in barrels as to handle it from the tank wagon?—A. A good many of them; yes, sir.

Q. How is that?—A. A great many of them.

Q. Is that generally true in Charlotte?—A. Is what generally true?

Q. That they would just as soon receive their oil in barrels as they would from the tank wagon?—A. If the price is the same, it is.

Q. That gives you an advantage, doesn't it?—A. I don't think so.

Q. Is not that a preferable way of delivering? Does not your trade like that way better?—A. Some of them do and some of them do not.

Q. Some of them prefer it in barrels, do they?—A. They buy it in barrels if they get a market lower than ours.

Q. That is because they get it a little lower, is it?—A. It may be.

Q. The Red "C" makes them a little better price on account of that?—A. Still there is some trade there that would pay more in barrels.

Q. Oh, yes, if they wanted—some jobbing trade, or something.—A. There is not much jobbing trade there at Charlotte.

Q. What is there to induce a man to pay more for oil in a barrel than to have it delivered in a tank wagon?—A. That is what I have been trying to find out for eight years.

Q. And you can't find out, can you?—A. No, sir.

9226 Q. Then, you don't mistrust that that is the reason they are selling it a little lower than you are, because their delivery is not as satisfactory?—A. Well, I don't know as that is the case.

Q. You don't know that that is not the case, do you?—A. No; I don't know as I do.

Q. Didn't you sometimes change your prices within a week in Charlotte?—A. I don't know, sir; I can't recall that. I can't recall that I did.

Q. You are not prepared to say you did not, are you?—A. No.

Q. What brand of oil was the Red "C" selling in your town?—A. Largely Sunbeam.

Q. That was their brand—Sunbeam?—A. Yes, sir.

Q. And you were selling a Diamond White Headlight—is that right?—A. Yes, sir.

Q. And I suppose that you claimed that yours was better than theirs, and they claimed that theirs was better than yours?—A. The latter is true, but I don't think the former is.

Q. You never made any claim?—A. I claimed that ours was just as good as theirs was and always have.

Q. But you never permitted yourself to go beyond saying that it was just as good, did you?—A. No, sir.

Q. Never in all your experience?—A. I do not think it was justice in a business way to have done it.

Q. You did not think that was right?—A. And I do not think it was on his part.

Q. What is that?—A. And I do not think it was on his part.

Q. No; you did not think it was right for him to say that his
9227 oil was better than yours?—A. No; because I did not think it was.

Q. Did you ever test the two oils?—A. No, sir; I did not.

Q. So you did not know?—A. No; I did not know.

Q. Yours might have been better than his?—A. Well, it may have been for all I know.

Q. Now, if you were really anxious to make a sale to a customer, wouldn't you sort of praise up your oil a little?—A. No, sir; not that grade. If he wanted a better oil, why I had a better oil for him.

Q. You had a higher-priced oil which you were selling there?—A. A little higher priced.

Q. How much were you selling your Water White oil for?—A. Usually a cent higher than the Diamond White.

Q. But the principal brand you were handling, as I understand, in that district was the Diamond Headlight?—A. The Diamond Headlight; yes, sir.

Q. When was it that you said you were selling your oil for 12 cents in Charlotte and the Red "C" was selling Sunbeam for 11½ cents?—A. I don't know that I can recall the year. It was something like 1905, I reckon.

Q. What part of 1905?—A. It may have been in the winter portion of the year, the latter half rather.

Q. What were you selling it for in January, 1904—what were you selling your Diamond White for?—A. I guess it was about 10½ or 11.

9228 Q. Didn't you say 12½ on your direct examination?—A. It might have been.

Q. Don't you know what it was?—A. I can't recall now.

Q. What was the Red "C" selling its brand for at that same time?—A. If we were selling at 12, they were 11½. They were always half a cent under us.

Q. That is all you remember about it?—A. Yes, sir.

Q. That is, that they were half a cent under you?—A. That is, at any specific date.

Q. During the month of February, 1904, you reduced your price, didn't you, a half cent, on one occasion?—A. It might have been. I can't recall.

Q. Then you got down to where the Red "C" was, didn't you?—A. Well, I guess the next sale down there they reduced theirs half a cent, in some manner or other.

Q. How do you know?—A. That was always the case. They were always half a cent under us right straight through in my field.

Q. You spoke about one case in which they allowed $1.10 a barrel. Do you think that is a pretty high price?—A. For what—for the barrel?

Q. Yes.—A. Well, that is more than they were paying ordinarily.

Q. Were not that same kind of barrels worth more than that at that time in Charlotte?—A. No, sir.

Q. Weren't they selling there for $1.25 and sometimes as high as $1.50?—A. They might have paid that much for some, but I don't know.

Q. No, but at that particular time in 1904?—A. I think they may have paid that much for some, but I didn't——

9229 Q. There was quite a demand there for barrels—turpentine is shipped in those barrels, isn't it?—A. Not from that point. There is some comes in there.

Q. Well, they are bought there to be used for shipping turpentine, aren't they?—A. No, sir; it is not a turpentine section at all.

Q. No, but they are shipped to stations where there is turpentine?—A. Not to my knowledge.

Q. You spoke about a case yesterday of a sale at Fort Mill. Your answer was, "The Red 'C' offered gasoline, shipped from Norfolk, Virginia, I think, at about 13 cents, delivered at Fort Mill." Now, why did you say "about 13 cents?" Do you know what it was?—A. Well, it was 13 cents—15 cents delivered at Fort Mill.

Q. That is the same case, isn't it, that you testified about this morning?—A. As I recall, it is.

Q. Did you change your mind about that situation over night?—A. Well, I just simply missed figuring in the freight on it.

Q. What is that?—A. I missed figuring in the freight on it yesterday evening.

Q. So you got it too high yesterday, didn't you?—A. No.

Q. How is that?—A. No.

Q. Well, who called your attention to the fact that you were balled up on your figures yesterday?—A. Well, I got to thinking about it. I lost sight of the freight—that is, the cost of hauling it from the shipping point to the destination.

Q. What was your price at Fort Mill at that time?—A. On gasoline?

9230 Q. Yes.—A. As I recall it, it was about 16½ cents delivered there.

Q. You said yesterday it was 14 or 14½, didn't you?—A. Well, that was the Charlotte price. The freight added makes it about 16 or 16½ cents; somewhere along there.

Q. Somewhere along there?—A. Yes, sir.

Q. You are not very definite about it?—A. Well, to be exact, I would have to figure it. I think about 16½ cents.

Q. About 16½?—A. Yes, sir.

Q. That is as definite as you can be, is it, to say that it was about that?—A. Yes, sir.

Mr. ROSENTHAL. Do you mean by that somewhere between 16 and 16½?

WITNESS. Yes, sir.

Q. That is what you mean, is it, when you say "about?"—A. Yes, sir.

Q. Well, then, you don't know whether it is 16 or 16½?—A. I know what the freight is.

Q. What is the freight?—A. The freight is 17 cents a hundred down to Fort Mill—68 cents a barrel ordinarily.

Q. What was the freight between Norfolk and Fort Mill?—A. It was, I expect, about 2 or 3 cents a gallon.

Q. Yesterday didn't you say that it was 3 cents a gallon, and perhaps as much as 4?—A. I think it is about 3 cents a gallon.

Q. About how much?—A. About 3 cents a gallon.

9231 Q. You said perhaps as much as 4, didn't you, yesterday? Have you changed your mind about that?—A. Yes.

Q. You have?—A. I think 3 cents; to be more positive about the exact rate I will say 3 cents. I don't know what the exact rate is, not now.

Q. You don't know whether you were mistaken or not yesterday when you said that it might perhaps be as much as 4 cents?—A. I think it was nearer 3 than it was 4.

Q. Do you know what the price f. o. b. Norfolk was at that time?—A. It was probably about 13 cents.

Q. How is that?—A. Probably about 13 cents.

Q. Probably about 13 cents? Is that as near as you can come to it?—A. Are you speaking of the delivery at Fort Mill?

Q. No.—A. Delivered at Fort Mill?

Q. No; f. o. b. Norfolk.—A. Well, you have reference to the delivered price at Fort Mill?

Q. No; at Norfolk.—A. I know what you are talking about, but you don't seem to get my idea. Are you referring to the shipment

to Fort Mill now, or something else that I don't know anything about?

Q. Yes; to Fort Mill.—A. Sir?

Q. Yes; shipped to Fort Mill from Norfolk.—A. I expect about 13 cents.

Q. You expect about 13?—A. 13 cents, f. o. b. Norfolk.

Mr. ROSENTHAL. Do not overlook the fact that when a Southerner says "I expect," he does not qualify.

Mr. MORRISON. He means "I expect," I suppose, what he says.

9232 Mr. ROSENTHAL. Oh, no, that is not a qualification, like it is with us, where you and I come from. That is a mode of expression.

Q. Well, that would make it 16 cents delivered, then, would it not, at Fort Mill?—A. Yes, sir, that price and the freight rate would make it 16 cents.

Q. And if you said yesterday, perhaps the freight rate was as much as 4 cents, that would make it 17 cents, wouldn't it?—A. Yes, sir.

Q. You gauged altogether 24 barrels?—A. Yes, sir.

Q. Will you give us now the time and the place where you gauged those barrels?—A. I think April, 1905, was the time. It was in the springtime.

Q. What is that?—A. It was in the springtime of the year, and the place was at the various stores that the barrels were.

Q. The various stores where?—A. In Charlotte.

Q. You went around and gauged all of them?—A. I gauged 24.

Q. How did you gauge them?—A. With a gauge-rod.

Q. Where did you get that rod?—A. We have it there at the plant.

Q. Where is it now?—A. It is at the plant.

Q. At the plant?—A. Yes, sir, as far as I know, it is.

Q. Who furnished you that rod?—A. The company.

Q. You gauged the empty barrels, did you?—A. Yes, sir.

Q. Went around and asked the storekeepers to let you do it?—A. Got permission of each man, yes, sir.

Q. Did you get any trade by that operation?—A. I don't know, sir.

9233 Q. How is that?—A. I don't know, sir.

Q. You don't know that you satisfied anybody that there was anything wrong?—A. I certainly did satisfy some, no doubt.

Q. They kept right on buying from the Red "C," didn't they?—A. Some of them did and some of them did not.

Q. Which ones did you get now, by means of gauging those barrels? What customers did you acquire in that way?—A. Well to begin with, all of our customers, as far as that was concerned. It was only a matter of convincing them.

Q. You owned them all?—A. It was only a matter of convincing them that they were not getting what they were paying for.

Q. How do you say they were your customers, if they were buying of the Red "C"?—A. Well, we sold them when the Red "C" was not there at all. Of course, they were all our customers.

Q. So that made them your customers. Now when the Red "C" sold them, they were Red "C" customers, weren't they?

Mr. ROSENTHAL. I understand all he said was that they were the Standard's customers before these other people came there.

Mr. MORRISON. He has not said anything of the kind.

WITNESS. That is what I am replying.

Mr. ROSENTHAL. That is what I asked him on direct examination, and what he testified to.

Mr. MORRISON. Well, I am taking him on cross-examination.

Q. When they were buying oil of the Red "C," did you regard them as your customers?—A. Yes, sir.

Q. They were yours, anyway?—A. I had sold them all the year round, and they would only sell them some in the wintertime.

9234 They would not come there at all in the summertime.

Q. Can you tell me what customers you got back from the Red "C" by gauging these barrels?—A. Well, there was a few of them that——

Q. Who were they?—A. A few that thought they were not getting what they were paying for.

Q. Who were they?—A. One of them was Miller & Miller at Charlotte.

Q. Anybody else?—A. L. W. Austin.

Q. Didn't both of those men buy of the Red "C" after that?—A. They may have done so; I don't know.

Q. You had been selling them off and on before that, hadn't you?—A. Yes, sir; for eight years.

Q. And you sold them off and on afterward?—A. Yes, sir.

Q. Did you notify your superior officer about gauging these barrels?—A. I may have reported on it.

Q. Did you?—A. Yes, sir.

Q. By letter?—A. Either by letter or by report—regular report.

Q. Did you notify the Red "C" oil representative that you were going to gauge those barrels and invite him to be present when it was done to see whether it was done accurately or not?—A. No, sir.

Q. Did not say a word to him about it?—A. No, sir.

Q. Why didn't you, if you wanted to make a fair test?—A. I didn't know where he was at the time.

Q. He was there frequently, wasn't he?—A. He would come in there about a couple of times—oh, every month or two.

9235 Q. And there never was a time when there were not some of his barrels there?—A. There may have been some of his barrels there, I don't know.

Q. There were no more of his barrels there at the particular time when you gauged them than there had been at many other times, were there?—A. Possibly not. It was just after a car had come in, and a number of barrels had been emptied.

Q. Did you think that was entirely fair to the Red "C" man to go in there and gauge his barrels in his absence?—A. Why, I think so. He had the same chance.

Q. You thought that was fair?—A. He had the same chance as myself.

Q. You thought that was a fair method of competition, did you?—A. I thought so; yes.

Q. And fair treatment?—A. Yes.

Q. But you did not think it would be fair to ever represent that your oil was better than his?—A. No; I did not.

Q. That you would not do?—A. I never did do it.

Q. You would not do it, because you did not think that was decent treatment?—A. No, sir.

Q. I think you said that at all of those places in your territory you delivered from your tank wagons?—A. Yes, sir.

Q. And that the Red "C" delivered in barrels?—A. The Red "C" delivered in barrels; yes, sir.

9236 ERNEST L. LILLARD, called on behalf of the defendants, being duly sworn, testified as follows:

Direct examination by Mr. ROSENTHAL:

Q. Please state your full name?—A. Ernest L. Lillard.

Q. Your place of residence?—A. Cumberland, Maryland.

Q. Your occupation?—A. Subagent of the Standard Oil Company.

Q. How long have you lived at Cumberland?—A. I went to Cumberland on April 2, 1907.

Q. And how long have you been connected with the Standard Oil Company?—A. About twelve years.

Q. In what capacity before going to Cumberland?—A. Subagent at Rockville, Maryland.

Q. How long at Rockville?—A. A little over seven years.

Q. And before that, what?—A. I was tank-wagon driver at Upper Marlboro, Prince George County, Maryland.

Q. For how long?—A. For about two years.

Q. And does that cover your service with the company?—A. I was tank-wagon driver at Barnesville prior to that, but I was under a commission man. I was not directly under the company.

Q. As subagent at Cumberland, Maryland, where do you get the prices that you charge?—A. I get them from the Baltimore office.

Q. In what form?—A. Usually by letter.

Q. Have you any authority to depart from those prices?—

9237 A. None whatever; no, sir.

Q. Have you ever done so?—A. No, sir.

Q. To whom do you sell?—A. I sell the dealers, the merchants.

Q. By tank-wagon delivery or otherwise?—A. By tank-wagon delivery, and also have some barrel trade.

Q. Who are your principal competitors in your field?—A. We have the Crown Oil & Wax Company, of Baltimore, who operate a tank wagon in our town.

Q. For the sale of refined oil?—A. Refined oil; yes, sir.

Q. Anyone else?—A. You refer to refined oil sales only?

Q. Yes, sir.—A. We have the Kenneweg Company, who are jobbers there.

Q. Do you know from whom they purchase their goods?—A. I am told they purchase from the Red "C" Oil Company.

Q. Where is the principal office of the Crown Oil & Wax Company?—A. Baltimore.

Q. Do you know who are the officers of that concern?—A. A man named Crowther is the president, I understand.

Q. When you were at Rockville, who were your principal competitors?—A. Our principal competitors were the Red "C" Oil Company.

Q. And you were at Rockville from 1902 to 1907?—A. No; I went to Rockville on March 5, 1900, and left there April 2, 1907—a little over seven years.

Q. Was the Columbia Oil Company also a competitor there?—A. Yes, sir.

Q. So your two principal competitors were the Columbia
9238 and the Red "C?"—A. Yes, sir.

Q. During the seven years that you were at Rockville, can you give us any instances of price-cutting by either of those companies at that point?—A. Yes, sir.

Q. In the sale of refined oil or gasoline?—A. Yes, sir. You mean in that vicinity, in my territory?

Q. Yes, sir.—A. Yes, sir; I can give you instances of both.

Q. Let me have them, please.—A. During the latter part of 1904 or the first of 1905 the Red "C" Oil Company sold to H. C. Hickerson, at Kensington, Maryland, and G. O. B. Cissell, at Wheaton, Maryland, and Carson, Ward & Bro., at Gaithersburg, Maryland, and Perry Waters, at Germantown, Maryland. Now, that is all that I can recall.

Q. Did they sell at a cut price?—A. Yes, sir.

Q. How much under the market?—A. The price was usually figured out at a half cent less than our tank-wagon price. Now, the price to H. C. Hickerson, at Kensington, was 10½ cents in barrels, f. o. b. Silver Spring. They paid a dollar and a quarter for the return of the package f. o. b. Silver Spring. Now, Mr. Hickerson hauled these barrels back to Silver Spring, the empty barrels, but he did not haul the full packages.

Q. How much of a cut did that figure out?—A. I figured that that is a little over half a cent. Now, our tank-wagon price at that point was 9 cents. Of course he got 2½ cents a gallon for his empty package. He paid 10½ and got 2½ cents a gallon for his empty package, or $1.25.

9239 Q. Making the net price 8 cents?—A. Yes, sir. Now, the freight from Silver Spring to Kensington—I am not sure, but of course for one barrel of oil it would not be less than 25 cents, but I think it averaged 15 cents a barrel. It is only a short distance. They shipped it to Silver Spring in carload lots, and paid the freight that far, in the whole car, and then distributed it from that point, and of course the customers paid the freight from Silver Spring to their places.

Q. Do you know of any other instances of price cutting?—A. Well, it was the same at G. O. B. Cissell's, at Wheaton, except that Mr. Cissell had his oil hauled from Silver Spring and paid 10 cents a barrel for hauling it, which is even more of a cut than Mr. Hickerson received, owing to the fact that he did not pay quite as much for the delivery.

Q. Do you know of any cuts that the Columbia made at Rosslyn, Virginia?—A. They made a cut at Rockville and vicinity.

Q. They are at Rockville?—A. They sent their advance agent, Mr. Campbell, I think his name is, and he solicited the business at that point. He was an advance agent. He came there prior to the tank wagon.

Mr. MORRISON. At what time?

WITNESS. This was in 1905 or 1906, possibly the spring of 1906, and he told the merchants there that he would sell oil to them at a cent less than our price and guarantee the oil to be equal to ours, or superior, and he made one visit there with his tank wagon, but
9240 found the distance too long to continue. He sold some oil there at a price of 1 cent per gallon under our market price.

Q. How about Wilson Bros., of Bethesda, Maryland?—A. He visited Wilson Bros. and took our trade away from us there. I discontinued sending my wagon to Wilson Bros. at Bethesda.

Q. Under what circumstances did he take it away?—A. On account of the cut in price, one cent per gallon. They afterward visited Linden and Forest Glen, and they continued to make those points, as they were nearer.

9241 Q. Did they cut there?—A. Yes, sir.

Q. How much?—A. One cent per gallon, and took the trade away.

Q. Do you know of any instances of overgauging on the part of the Red "C?"—A. Yes, sir.

Q. Tell us about that, please.—A. At Rockville we didn't do very much of a barrel business, and occasionally we would run short of empty barrels, and Mr. Hicks, who purchased regularly from the Red "C" Oil Company, usually had empty barrels on hand, and occasionally we could buy a few from him, in emergency cases. He didn't sell them regularly to us. On several different occasions, nearly all the time, we would have to paint the barrels over and regauge them, because we found them overgauged.

Mr. KELLOGG. Where is this?

WITNESS. W. Hicks, at Rockville, Maryland. Now, I have two witnesses to prove that this happened a number of times, at least half a dozen of times, because we would run short.

Q. How much would you find the barrels overgauged?—A. On an average of 1½ gallons. Some of them were gauged all right. And another instance, we visited Unity, Maryland, and we found one of our regular customers had a hole in his oil tank and could not take a supply. He said, "J. W. Benson, of Grifton, is buying in barrels from the Red 'C' Oil Company, and when you pass his place you tell him that I want to borrow one of his barrels." And he said, "You fill it with oil and leave it at Mr. Benson's store for me." And so when I——

Q. I don't care to have you go into those conversations. Do
9242 you know of any case of overgauging by the Crown Oil & Wax Company?—A. Yes, sir.

Q. Tell me about those, please.—A. At Cumberland—of course I didn't come in contact with them before I went to Cumberland, but we buy up various barrels; that is, barrels from various companies, and I found that in a number of cases the barrels were over-gauged, some as much as 4 gallons. We have the barrels there now, a great many of them.

Q. About how many barrels did you find overgauged there?—A. We found—of course, I couldn't tell you that very well.

Q. Approximately?—A. I think we found as many as a hundred.

Q. All belonging to that company?—A. All shipped out by that company; yes, sir.

Q. And the overgauging will run about how much per barrel, or did run about how much?—A. I would judge about two gallons on the average. I found some overgauged as much as four gallons.

Cross-examination by Mr. KELLOGG:

Q. You spoke of price cutting that you figured out at Rockville. How far is that from Washington?—A. I think it is about 14 miles.

Q. And the oil of your competitors was shipped from what place?—A. Was hauled from Rosslyn, Virginia.

Q. H. C. Hickerson, at Kensington, Maryland.—A. His oil was shipped from Silver Springs.

Q. And the same with Mr. Cassell's?—A. Mr. Cissell.

Q. Is that Cissell?—A. His oil was hauled from Silver Springs.

9243 Q. And the same with Carson Ward & Bros.?—A. They usually shipped from Silver Springs.

Q. Now, you take this man Hickerson. What company did you say sold that oil?—A. The Red "C" Oil Company.

Q. Sold it for 10½ cents?—A. Yes, sir.

Q. F. o. b. cars at Silver Springs?—A. Delivered at Silver Springs; yes, sir.

Q. 2½ cents for barrels, you say?—A. No; I said $1.25 for the return of the empty package.

Q. That is what they allowed him?—A. Yes, sir.

Q. That is equal to 2½ cents, and that made the price 8½ cents f. o. b. cars Silver Springs?—A. Yes, sir.

Q. Then, Mr. Hickerson had to send that by freight from Silver Springs to Kensington, Maryland?—A. Yes, sir.

Q. Then haul it in a wagon to his store?—A. No; it was unloaded right at his store.

Q. Unloaded right from the car to his store?—A. Yes, sir.

Q. He had to unload it himself, hadn't he?—A. Not from the cars; no, sir.

Q. Who did?—A. The railroad people. The platform was right near his store.

Q. That didn't come in full carloads?—A. No; that came in less than carloads. It was unloaded on the platform right at his store.

Q. What was the freight rate in less than carloads from Silver Springs to Kensington, Maryland?—A. I don't remember the exact rate, but we often figured it——

Q. No, I want to know if you know what the rate was.

9244 Mr. ROSENTHAL. Wait a minute. You often figured what?

WITNESS. We often figured that it was 15 cents per barrel in getting it in two or three barrel lots. Of course in one barrel lots it would be 25 cents anyway.

Q. Why did you figure it if you didn't know what the freight rate was?—A. I don't remember exactly what the freight rate was.

Q. Then, why did you figure it 15 cents?—A. Mr. Hickerson told me, and I remember distinctly we figured at least 15 cents per barrel.

Q. Why did you figure it if you didn't know what the freight rate was?—A. We did know then what the freight was.

Q. The railroad company only publishes freight rates in carloads and less than carloads, doesn't it?—A. I suppose that is right.

Q. There are no other freight rates published, are there?—A. Not that I know of.

Q. You never heard of any other freight rates on oil except the carload and less than carload, did you?—A. I never did; no, sir.

Q. Then the less than carload was 25 cents a hundred, was it?—A. Not necessarily so; no, sir.

Q. Well, was it or was it not?—A. It was not.

Q. What was it?—A. I don't remember exactly. I remember that we figured it 15 cents per barrel.

Q. I didn't mean a hundred; I mean a barrel. I beg your pardon. It was 25 cents a barrel in less than carload lots, wasn't it?—A. No, sir.

Q. What was it?—A. It was 15 cents.

9245 Q. I thought you said you didn't know what it was?—A. We figured it to be 15 cents. I told you I know what it was.

Mr. CAMPBELL. He means he knew at the time.

WITNESS. Yes; I knew at the time it was 15 cents per barrel, because we often figured it, because we tried to secure Mr. Hickerson's trade.

Q. What did you mean by saying in single barrels it was 25 cents?—A. Because the railroad company will not make a shipment for less than a quarter; that is the minimum charge.

Q. Oh, that is it? It was 15 cents a barrel, was it?—A. Yes, sir.

Q. Now, Mr. Cissell's store at Wheaton, was that on the railroad?—A. No, sir.

Q. He hauled it himself, did he?—A. No; he paid 10 cents per barrel for having it hauled.

Q. If he shipped it by freight what would it have been?—A. Kensington would have been the nearest point. It would have been 15 cents a barrel, and then he would have had it to haul, but that was not the case.

Q. What was the freight rate from Silver Spring to Wheaton, Maryland?—A. Wheaton is not on the railroad.

Q. How far is it from the railroad?—A. About a mile and a half. It is not much more than a mile and a half from——

Q. So he would have had to pay 15 cents a barrel if he shipped it by freight to Kensington, and how much for hauling it from Kensington to Wheaton?—A. I don't know. I know he paid
9246 10 cents per barrel for hauling it from Silver Spring to his store.

Q. And 10 cents for hauling the empty barrel back?—A. He hauled the empty barrels himself with his own wagon.

Q. Well, he had to do it for whatever that cost him?—A. Yes. I talked that to him and told him that that was an expense, and he said he didn't consider it any expense, as his wagon went to town to haul his goods.

Q. So you figured that that was no expense, and by this roundabout way of figuring you set down a figure and say that they cut you nearly half a cent a gallon?

Mr. ROSENTHAL. That is not what he said.

Q. Is that right?—A. No, sir.

Q. What is it?—A. I said they cut me over half a cent.

Q. How much over?—A. In Cissell's case it is very nearly ¾ of a cent.

Q. And Mr. Hickerson's case?—A. It is a little over half a cent.

Q. And in Carson Ward & Bro.'s case?—A. About half a cent.

Q. About half a cent?—A. Yes, sir.

Q. Now, how do you figure that?—A. I figure that just the same way that I did Hickerson, at Kensington.

Q. What was the freight rate from Silver Spring?—A. The cost of freight per barrel to Carson Ward & Bros., Gaithersburg, was 20 cents per barrel from Silver Spring.

Q. To what place?—A. To Gaithersburg.

Q. Then, they had to haul it how far?—A. Only a few hundred yards.

9247 Q. But they had to load it up and haul it to their store?—A. Yes, sir.

Q. You figure the 20 cents a barrel, do you?—A. Yes, sir.

Q. They sold at what price f. o. b. cars—10½ cents?—A. 10½ cents; yes, sir.

Q. That $1.25 the same?—A. Yes, sir.

Q. How much did you allow as the expense of hauling from the station to their store?—A. Well, I insisted that it was an expense to him and solicited the business at our open market, and he said it was no expense to him whatever, that he hired his man and hired his wagon, and it was no expense.

Q. It was no expense? They could work for nothing? It costs you money to deliver, doesn't it?—A. Yes, sir.

Q. So you didn't figure any expense there?—A. No; didn't figure any expense.

Q. How did your price in these towns compare with your Washington price?—A. I really don't know.

Q. You don't know about the Washington price?—A. No; I had nothing to do with Washington; I was under Baltimore.

Q. What was the price in Rockville at the beginning of 1905, when you said they offered to cut one cent?—A. 9 cents, to my best recollection, but I am positive they came in with a price of 8 cents.

Q. How far is Rockville from Washington?—A. About 14 miles.

Q. Are you sure it was 9 cents?—A. I am not sure. 9 or 9½; but I am sure they came in with a price of 8 cents.

9248 Q. They said they would sell at 8 cents?—A. They did sell.

Q. How much?—A. I really don't know. They sold to customers there. They found the distance too long to make it from Rosslyn to Rockville, but they immediately went to visit Linden and Forest Glen, right in the same field, which was nearer to their plant.

Q. What was the price there?—A. They cut——

Q. What was your price there?—A. My price was the same there; my price was the same all over the field.

Q. What was it?—A. Either 9 or 9½.

Q. What date?—A. That was in 1905 or during 1906.

Q. Now, these barrels that you gauged there at Cumberland. You were in the business of buying barrels, were you?—A. Oh, yes, sir. We buy all the barrels we can get hold of.

Q. How many Standard Oil barrels did you ever gauge?—A. We gauged every one we filled.

Q. Never found one overgauged, I suppose?—A. Not to my knowledge; no, sir.

Q. But all your customers' barrels, or nearly all of them, were overgauged?—A. I didn't say that.

Q. Well, you said you gauged a hundred.—A. Oh, we buy thousands of them.

Q. You do?—A. Yes, sir.

Q. You found among the thousand a hundred barrels that you thought were overgauged?—A. In my opinion we have easily found

a hundred, and we have a great many on hand now that have never been touched. We have them in the warehouse.

Q. You still buy them?—A. Still buy them; yes, sir.

Q. What do you use them for?—A. We refill them; regauge
9249 them, and refill them.

Q. You don't know anything about how much oil they sold or pretended to sell in those barrels at all, do you?—A. I only know that it is customary for a dealer to charge up according to the gauge on his package.

Q. You never saw the invoices and you don't know anything about it, do you?—A. I never saw the invoice.

Q. You don't know how much they sold or anything about it?—A. Oh, yes, I know something about it. I know the dealers charge up according to their gauges on the package.

Q. Do you know, in these hundred barrels, how much oil the dealers bought?

Mr. ROSENTHAL. He may know how much they supposed they bought.

Q. Do you know anything about it?—A. I know how much they supposed they bought.

Q. Did you go and talk with the dealers as to each one of these hundred barrels?—A. No, sir.

Q. Then, you don't know what they supposed they bought, do you?—A. I know that they are supposed to have bought what the barrel was gauged.

Q. How do you know it?—A. Simply from the gauge on the barrel.

Q. That is what I supposed. Have you got in your office prices at Rockville during 1905 and 1906?—A. No, sir; I have not.

Q. You have not got those?—A. No, sir.

Q. You don't keep them?—A. No, sir.

9250 Mr. KELLOGG. Mr. Rosenthal, I would like to have you produce the prices at Rockville during 1905 and 1906.

Q. Your deliveries in all these places that you have testified about, where the cuts were made, were tank-wagon deliveries, were they?—A. Yes, sir.

Redirect examination by Mr. ROSENTHAL:

Q. When a merchant buys a barrel of oil, in the oil trade, the trade theory is that he gets a barrel full, is it not?—A. Yes, sir.

Q. And the barrel full is indicated by the gauge on the barrel, is it not?—A. Yes, sir.

Q. Does he ever have oil delivered to him in barrels in less than a barrel quantity?—A. I never heard of it.

Q. You never heard of that?—A. No, sir.

Q. The average barrel contains how many gallons?—A. The average barrel I would judge contained 51 gallons.

Q. Now, if a merchant buys a barrel of oil, then he supposes that he is getting 51 gallons; is that right?—A. If it is gauged that; yes, sir.

Q. Did you ever hear of a merchant buying 47 gallons of oil, or 45 gallons of oil, or 49 gallons of oil in the barrel?—A. Why, yes, sir.

Q. When that is done, then the gauge is so indicated on the barrel, isn't it?—A. Yes, sir.

Q. But never 30 gallons?—A. Never; no, sir.

9251 Recross-examination by Mr. KELLOGG:

Q. How do you gauge a barrel?—A. In those instances of gauging barrels at Rockville for Mr. Hicks, and at Kensington, we used our tank-wagon buckets for the purpose of gauging them.

Q. Your buckets?—A. Yes, sir. Also at Grifton, J. W. Benson.

Q. And filled them up?—A. And filled them up; yes, sir.

Q. Now, in Maryland, how did you gauge those?—A. At Cumberland we gauged those barrels with a gauge rod.

Q. By a gauge rod which you stick into the end of the barrel, do you?—A. Into the bung of the barrel; yes, sir.

Mr. ROSENTHAL. You have to have a hole there to get in, I suppose?

WITNESS. Yes, sir; that is right.

Q. And you measure what?—A. We measure both ways.

Q. Both ways?—A. Yes, sir. There are times when the bung is not plumb in the middle of the package, and therefore it is necessary to measure both ways.

Q. Suppose it is in the middle?—A. If it is in the middle and it is a uniform package, one way will answer.

Q. You measure one way?—A. No, sir; we always measure both ways, because we do not measure to see if the bung is in the middle; we simply measure both ways to be sure of it.

Q. What do you mean by measure—the inside of the barrel?—A. Yes, sir.

Q. Lengthwise of the barrel?—A. We take the gauge rod and put it to the head one way, one head, and turn it around and

9252 measure to the other head the other way.

Mr. ROSENTHAL. He will make a practical oil man of you if you keep on, Mr. Kellogg.

Q. Now, what part of the head do you touch with the end of the rod?—A. We touch the lower part.

Q. The lower part?—A. Yes, sir. Of course the bung is up, you know. We touch the lower part of the head.

Q. The bung is on the side of the barrel?—A. Yes, sir.

Q. Supposed to be in the middle?—A. Yes, sir; or near the middle.

Q. You put your rod in and measure across the barrel first, do you?—A. Measure from the bung to the lower head on this side, and then the same way with the other head.

Q. You put your stick down into the corner of the barrel, do you, the lower edge? For instance, if a barrel is lying on its side you stick the rod through the bung down to the other edge of the barrel, do you?—A. Yes, sir.

Q. And then the other way in the same manner?—A. Yes, sir.

Q. And measure it from the bung, and then you figure up, do you?—A. Yes, sir.

Q. And that supposes the barrel to be perfectly round and even in every way, doesn't it?—A. Yes, sir.

Q. Otherwise it would not measure up correctly. In order for it to measure correctly you have got to get your rod every time in an exact place, haven't you?—A. Not exact; no, sir.

Q. Well, it should be, shouldn't it?—A. No, sir.

Q. Why?—A. Well, "exact" would mean right to a hair's
9253 breadth, but it does not have to be anything.

Q. You would only get it approximately?—A. No, sir, I don't say that.

Q. Where do you get it?—A. We get the exact gauge of the barrel, the shell capacity of it.

Q. How do you get it?—A. Get it by the use of the gauge rod.

Q. But you have got to put your gauge rod in the correct place in order to get it correctly, haven't you?—A. Yes, sir.

Q. And your gauging of these barrels assumes that every time you got your rod in exactly the same place, doesn't it?—A. We assume that; yes, sir.

Q. Because if you didn't have your rod in the same place it would not figure right, would it?—A. If you did not use your rod correctly it would not figure right, of course.

Q. The bunghole being at a place in the side of the barrel, in order to get the correct measure you have got to have your rod reach the opposite side of the barrel in the same place, haven't you?—A. Not exactly the same place.

Q. Well, substantially, haven't you?—A. Yes, sir.

Q. If you don't it won't measure correctly, will it?—A. No, sir.

9254 R. E. HODGSON, called on behalf of the defendants, being duly sworn, testified as follows:

Direct examination by Mr. ROSENTHAL:

Q. Your full name, please?—A. Robert Edward Hodgson.

Q. Where do you live?—A. Valdosta, Georgia.

Q. What is your business?—A. I am traveling salesman for the Standard Oil Company of Kentucky, with headquarters at Atlanta, Georgia.

Q. You have been for how long?—A. Since April 1, 1906.

Q. What was your business before that?—A. For a year prior thereto I was with the Standard Oil Company of New Jersey, traveling from the Baltimore office, although I reported to Savannah, Georgia.

Q. And before that?—A. Before that I was for about two years traveling salesman for the Dixie Oil Works, Baltimore station, reporting to their Savannah, Georgia, station.

Q. And traveling where for the Dixie?—A. Traveling in the southern portion of Georgia.

Q. And where before that?—A. Before that I was for a few months in the office of the Dixie Oil Works at Baltimore.

Q. When were you first salesman for the Dixie?—A. I commenced about the first of April, 1903, traveling for them.

Q. And what did you sell for them?—A. Refined and lubricating oils.

9255 Q. Who were your competitors in the field?—A. The Standard Oil and the Crew-Levick Oil Company.

Q. Crew, Levick & Company were competitors in lubricating oils?—A. They were only competitors in lubricating oils. They sold a small quantity of refined oil, but I did not consider them a competitor, because they bought from us.

Q. Where do you say your field was?—A. In South Georgia.

Q. And at that time was the business the business of the Dixie Oil Works and the Standard Oil Company?—A. The Dixie Oil Works.

Q. That is, the refined oil and gasoline business?—A. We handled no gasoline.

Q. How did the Dixie sell its oil—in packages or tank wagon?—A. Tank wagon in the city of Savannah and barrels to the country trade, to the towns outside of Savannah.

Q. What efforts did you make to get business away from the Standard Oil Company at that time?—A. I endeavored to get all the business I could for the Dixie Oil Works. I called on customers regardless of whose customers they were, and put forth just as much effort to get customers from the Standard Oil Company in refined oil as I did from the Crew-Levick Company in the lubricating market. In the territory not visited by the Standard Oil Company's tank wagon they had to ship in barrels. I believe we had the majority of the business—that is, of the refined oil business.

Q. Did any other competitors come into that field later on, while you were there for the Dixie?—A. Do you mean in the refined oil market?

Q. Yes.—A. Not to my knowledge, not during the time I 9256 was with the Dixie.

Q. Were you ever employed by the Dixie Oil Works at Richmond, Virginia?—A. Yes, sir.

Q. When?—A. For just a few months prior to coming to Baltimore.

Q. When was that?—A. That was in the year 1902.

Q. What was the business of the Dixie at Richmond at that time?—A. Why, we sold only refined oil, tank wagon, to the trade in Richmond and Manchester, and barrel oil shipments to the country trade.

Q. What companies then were doing the refined oil business at Richmond?—A. The Standard Oil Company and the Dixie Oil Works.

Q. Were there no other companies that were doing a refined oil business at Richmond at that time?—A. I don't think so. If there were I didn't know it. I was in the office and did not come in contact with the trade.

Q. During the time that you have been with the Standard of Kentucky in the Georgia field do you know of any instances of price cutting by the Gulf Refining Company in that field?—A. Yes, sir; I do.

Q. Let us have them, please.—A. A case only a few months ago, about two months ago, the case of the Atlantic & Gulf Mill, cotton mill, at Whitman, Georgia, on gasoline. They had a contract to let for their year's supply of gasoline, and the lowest price that I was authorized to make was our regular market price of 14½ cents. They submitted a price of 12 cents a gallon delivered at Whitman
9257 and got the contract, and they have the business now.

Q. Which company had it before that?—A. They had no contract before that, but bought in the open market from us.

Q. Any other cases?—A. There are a great many cases there at Jakin, Georgia. Our delivered price on refined oil at Jakin was 14½ cents. We ship there from Bainbridge. Their man called on them a few months ago and made a delivered price of 13½ cents and sold practically every merchant in the town, delivered. They shipped from Dothan, Alabama.

Q. On oil that was represented to be as good as your 14½-cent oil?—A. The laws of Georgia are very rigid in regard to inspection. It afterwards developed that they had shipped uninspected oil into the State, and they have not since shipped any oil down there. I don't know whether anything has been done yet about it or not, but they then commenced shipping from their Bainbridge, Georgia, station, and I presume they are now shipping inspected oil. But the shipments from Dothan were uninspected oil. Only a few days ago, about a week ago, they opened a refined oil station at Thomasville, Georgia, and while they meet our price on oil, which has been in effect for several months there at Thomasville, at 11½ cents a gallon, they made a few sales of oil there which was uninspected. However, the local inspector got on to them, and I presume they have now paid the inspection on it. I don't know. Those are all the cases that I can recall just right now.

Q. Of price cutting by the Gulf?—A. By the Gulf.

(No cross-examination.)

9258 H. V. DANIEL, called on behalf of the defendants, being duly sworn, testified as follows:

Direct examination by Mr. ROSENTHAL:

Q. What is your name?—A. H. V. Daniel.

Q. Henry?—A. Horace.

Q. Where do you live?—A. Durham, North Carolina.

Q. How long have you lived there?—A. Since the 23rd of June, 1906; since I have been with the company.

Q. What is your business?—A. General salesman for the Standard Oil Company.

Q. And is that the length of time you have been connected with the Standard?—A. That is; yes, sir.

Q. What class of goods do you sell for the Standard?—A. Among other goods, lubricating oil, refined oil, and gasoline.

Q. Where do you travel?—A. I travel in Virginia and North Carolina.

Q. Where do you get your prices?—A. From our Norfolk office.

Q. By letter?—A. Yes, sir.

Q. Are you at liberty to depart from the prices that you get from the main office?—A. I am not; no, sir.

Q. Have you ever done so during the time that you have been nected with the company, of any instances of price cutting by any sales?—A. I never have; no, sir.

Q. Who are your principal lubricating competitors?—
9259 A. Leonard & Ellis, Harwood Bros., Red "C" Oil Company, and the Victor Oil Company, of Cleveland.

Q. Do you know, during the two years that you have been connected with the company, of any instances of price cutting by any of those concerns in your territory?—A. I do; yes, sir.

Q. Please let us have them.—A. This is relative to lubricating oil, you understand?

Q. Yes, sir.—A. The case of Jeffreys & Ricks, Rocky Mount, North Carolina. These people operate a brick plant down there, manufacture brick, and they use quite a lot of brick oil. I was selling these people oil at 14 cents f. o. b. Norfolk, and I lost the trade to Harwood Bros., of Richmond, who put in an oil, which they claimed was just as good as my oil, for 2 cents a gallon less, delivered at Rocky Mount.

Q. Any other cases in connection with lubricating oils?—A. That is all I can assert on lubricating oil.

Q. Who were your principal competitors in connection with the sale of refined oil?—A. The National Oil Company, the Red "C" Oil Company, and the Richmond Oil Company were the principal ones.

Q. How do they sell their oils in your territory?—A. In wood barrels.

Q. And how is your oil sold?—A. Tank wagon, most of it.

Q. Can you give us any instances of price cutting by any of those companies in your field in connection with the sale of refined oils or gasoline?—A. Yes, sir; I can.

Q. Let us have them, please.—A. W. C. Height, of Henderson,
North Carolina, merchant, the largest dealer in town. We
9260 were enjoying his business up to—I don't remember the date, but some time the first of the year.

Q. What year?—A. This year. The trade went to the National Oil Company. They put in an oil that they claimed to be as good as our 12-cent Aladdin oil, in fact for half a cent less. Mr. Height verified this price by showing myself and the subagent at Henderson an invoice showing this price of 11½ cents against our tank-wagon price of 12 cents.

Q. Were you asked to cut to their price.—A. I didn't understand that question.

Q. Did the merchant wish you to make a cut of your price to theirs?—He told me he would give me the business if I would meet the price.

Q. Did you do so?—A. I did not; no, sir. The National Oil Company is still selling him to-day.

Q. Do you know of any other cases?—A. Yes, sir; I can cite you E. A. Kelly & Son, Henderson.

Q. Tell us about that case, please.—A. We formerly had the business from Mr. Kelly. This business also went to the National Oil Company. They put in a brand of oil that they call White Star, at half a cent under our market price. Mr. Kelly told me he would give me part of his business if I would meet the price, which I could not do; so we lost the business.

Q. Any other cases?—A. A. P. Minger, Henderson, North Carolina.

Q. Give us the history of that case.—A. We were selling Mr. Minger our Aladdin oil at 12 cents, and the National Oil Company put in White Star oil, which they claimed to be as good
9261 as Aladdin, at one-half cent cut.

Q. And what became of the business?—A. The business went to the National Oil Company.

Q. Do you know of any cut in connection with the business of H. M. Church, of Middleburg, North Carolina?—A. Yes, sir.

Q. By whom was that cut made?—A. This cut was made by the Richmond Oil Company.

Q. Of how much?—A. We were getting this business, and the Richmond Oil Company put in a brand of oil called Electric Safety. They sold them this oil in barrels f. o. b. Richmond. The price they made was 9¾. Our price at the time the business went over was 10½ cents. Our price now on similar grade oil is 10 cents. They now have a quarter of a cent cut on our price.

Q. They started with a ¾ of a cent cut?—A. They started with a ¾ of a cent cut; yes, sir. Mr. Church showed me an invoice verifying this price. At the time our price was 10½ cents he showed me an invoice.

Q. Were there other merchants at Middleburg to whom they made the same cut?—A. Yes, sir. The Middleburg Supply Company, J. T. Crocker, George Hawkins, of Graystone, North Carolina; S. M. Finch (I am not positive about those initials), of Graystone; White Bros., of Manson, North Carolina, and Riggin & Son, of Manson, North Carolina, and William Bullock, J. W. Bullock——

Mr. KELLOGG. Where is this? What are you talking about?

WITNESS. Manson, North Carolina.

Q. Who else?—A. That is about all I know in that case.

Q. How about S. W. Finch, of Graystone, North Caro-
9262 lina?—A. I gave that name among that list.

Q. And Mr. Kelly, of Henderson; you have covered that case?—A. Yes, sir.

Q. And W. C. Height, of Henderson; you have covered that case, have you?—A. Yes, sir.

Q. During the two years that you have been connected with the Standard Oil Company, traveling throughout your territory, do you

know of a single case where a price cut was initiated by the Standard Oil Company?—A. I do not; no, sir.

Q. Within your territory and with respect to your trade did the Standard ever initiate a price cut during those two years?—A. They did not; no, sir.

Q. By whom was the cut always initiated?—A. By the competitor.

Q. Your competitors in your field, as I understand you, sell entirely by barrel delivery, do they?—A. Entirely by barrel delivery; yes, sir.

Q. Do you also sell in barrels?—A. I do; yes, sir.

Q. But your principal business is tank-wagon delivery, isn't it?—A. Most all of my business is tank-wagon delivery; yes, sir.

Q. You do not reach the consumer at all?—A. Not at all; no, sir.

Q. Have you now given us all of the instances of price cutting within your field during the last two years that you remember?—A. I remember one other case.

Q. All right; let us have that.—A. That of the Rocky Mount Machine Works.

9263 Q. Tell me about that.—A. We were selling these people gasoline at 16½ cents. The business went to Harwood on a half a cent cut. They put gasoline in at 16 cents against our price of 16½. They still have this business, and have had for the two years I have been in the field.

Cross-examination by Mr. KELLOGG:

Q. You named several firms at Middleburg, didn't you?—A. Yes, sir.

Q. You were selling there at 10½ cents from your tank wagon?—A. No, sir.

Q. I thought you said you were.—A. No, sir. We were speaking about barrel goods.

Q. You said they sold to H. M. Church at Middleburg?—A. Yes, sir.

Q. What was the cut they made?—A. My barrel price was 10½ cents as against 9¾ from the Richmond Oil Company in barrels.

Q. What were you selling at from the tank wagon?—A. I was selling a high-grade oil——

Q. What were you selling at from the tank wagon?—A. 12 cents.

Q. 12 cents?—A. Yes, sir.

Q. Higher grade oil?—A. Yes, sir.

Q. What kind of oil?—A. Aladdin oil.

Q. But you were selling barrel oil at 10½ cents?—A. Yes, sir; f. o. b. Norfolk.

Q. That was a lower grade oil?—A. Yes, sir.

Q. And the Richmond Oil Company sold theirs at 9½ cents

9264 f. o. b. where?—A. 9¾ I said.

Q. Oh, 9¾?—A. Yes, sir.

Q. Where?—A. F. o. b. Richmond.

Q. What was the freight from Norfolk to Middleburg?—A. 32 cents a hundred.

Q. What was the freight from Richmond?—A. I think the same. It may have varied a couple of cents.

Q. You don't know about that?—A. No.

Q. But you figured it the same?—A. Yes; I figured the Richmond and Norfolk freight the same.

Q. But you don't know whether it was the same or not?—A. No.

Mr. ROSENTHAL. He says he thinks it was.

Q. Do you know whether it was, or don't you?—A. I don't know positively, but it is about the same. It may vary. There may be a couple of cents difference in favor of Richmond.

(A recess was here taken until 2 o'clock p. m.)

9265 WILLIAM A. BARRETT, called on behalf of the defendants, being duly sworn, testified as follows:

Direct examination by Mr. ROSENTHAL:

Q. Where do you live?—A. Martinsville, Virginia.

Q. How far is that from Richmond?—A. Not 200 miles.

Q. And from Baltimore?—A. I don't know.

Q. How long have you lived there?—A. About two years.

Q. What is your business?—A. Traveling salesman for the Standard Oil Company.

Q. Where do you travel?—A. I travel in the southern part of Virginia, from Amelia County to Patrick, the west boundary of Patrick.

Q. How long have you been in the employ of the Standard Oil?—A. Since January, 1905.

Q. And what goods do you handle?—A. Refined oil, specialties, lubricating oil, stoves, lamps, and heaters.

Q. Where do you get your prices from?—A. From the Richmond office.

Q. From the special agent there?—A. The special agent of the Richmond office; yes, sir.

Q. And they come to you in the same way that these other men have testified?—A. By letter; yes, sir.

Q. Have you any authority in your field to depart from those prices?—A. None whatever.

Q. I presume you are in touch with your special agent with respect to the trade of your competitors, too, are you not?—

9266 A. Yes, sir; through my reports; daily reports.

Q. By writing daily to him?—A. Yes.

Q. As to what you are doing and as to what the situation is there in general?—A. Yes, sir.

Q. And you get replies from the Richmond office?—A. Yes, sir.

Q. By mail?—A. Yes, sir.

Q. Were you ever authorized by the special agent at Richmond to depart from the prices given to you?—A. No, sir.

Q. Have you ever departed from those prices?—A. I have not.

Q. Or sold any merchandise at prices less than your list prices?—A. No, sir.

Q. Nowhere in that territory during the time that you have been employed there?—A. No, sir.

Q. When do you say your employment dates from?—A. January, 1905.

Q. What competition have you found in your territory in, say, lubricating oils?—A. Harwood Bros., of Richmond; Hynes & Company, Gaithersburg; Tanner Paint & Oil Company, of Richmond.

Q. Sanders Bros.?—A. Sanders Bros., Richmond; yes, sir, and various companies from Cleveland; I don't recall those.

Q. In the sales of your lubricating products do you adhere to your list prices?—A. Yes, sir.

Q. Do you know of cuts made by any of your competitors in connection with sales of lubricating products, and, if so, state to whom and the circumstances.—A. Harwood Bros., of Richmond, sell to Noell Anderson Manufacturing Company, of Danville, Vir-
9267 ginia. They sell oil which they claim to be equal to our Atlantic red engine. Their price is 18 cents f. o. b. Danville, and our price is 18¼.

Q. Who were your competitors in refined oil and gasoline?—A. I have no competitors in gasoline. The Richmond Oil Company is our competitor in refined oil.

Q. How about the Red "C" Oil Company?—A. Yes, they are our competitors; that is a fact.

Q. The Red "C" Oil Company and the Richmond Oil Company?—A. Yes.

Q. And Harwood Bros.?—A. Harwood Bros.

Q. How do you sell your refined oil?—A. By tank wagon and by barrel.

Q. How do they sell theirs?—A. Barrels.

Q. Do you know of any instances of price cutting in your territory by any of those concerns in connection with the sale of oil?—A. In Clover, Virginia, they deliver oil to the doors, the same places we charge f. o. b. the depot—Drakes Branch——

Q. Do you know of a case in connection with the Bassetts Furniture Company in 1906 and the Smith River Chair Company?—A. In the sale of benzine; yes, sir.

Q. What about that?—A. Those two concerns had a contract with us for benzine at 14 cents per gallon f. o. b. Bassetts, and they to pay freight on returned drums. The Red "C" Company shipped them about December 8th or 9th (somewhere along there) a carload of benzine, sold it to them for 13½ and paid the freight—13½ f. o. b. Bassets for the benzine and paid freight on returned drums, empty. That of course knocked us——

Q. What became of the trade?—A. We lost it.

9268 Q. Lost both of those customers?—A. Yes, sir.

Q. By reason of that cut?—A. Yes, sir.

Q. Do you know Mr. Robert Jones, of Blackstone, Virginia?—A. Yes, sir.

Q. Did you have any price-cutting experience with him?—A. Yes, sir.

Q. Please state it.—A. The Richmond Oil Company sells Mr. Jones an oil that they say is equal to our Diamond Headlight for 9¼ cents a gallon, 1 per cent off for payment in ten days, whereas our price is 9¼. Our price is 9¼ in 5-barrel lots.

Q. And he got it from the Richmond at what price?—A. 9¼.

Mr. KELLOGG. That is in our favor.

WITNESS. Oh, I beg your pardon.

Q. Let us see if we have got that straight. What did Mr. Jones tell you that he was getting his oil for from the Richmond Oil Company?—A. Now I am straight. You ask the question right. Our price was 10 cents, and he was paying 9¼ first, and 1 per cent off for cash.

Q. That is, your price was 10 cents?—A. Yes, sir.

Q. He was buying it from the Richmond at 9¼ cents?—A. Yes, sir.

Q. With 1 per cent off for cash?—A. Yes, sir.

Q. Three-fourths of a cent cut. Did he make any proposition to buy from you in the event that you would make the cut?—A. Yes, sir; he said he would buy from me at equal price.

Q. Did you make the cut to meet theirs?—A. No, sir.

Q. Did you lose the business?—A. Yes, sir.

Q. Do you know any case where the Richmond Oil Company
9269 has as its agent a railroad agent?—A. Yes, sir.

Q. Where is that?—A. At Randolph.

Q. Where?—A. A place called—no—wait a moment. A man by the name of Figg.

Q. At Formosa?—A. Formosa—Randolph is the station.

Q. Mr. Figg, agent of the Southern Railroad at that point?—A. Yes, sir.

Q. And is he also the agent for the Richmond Oil Company?—A. Yes, sir.

Q. Does the Standard sell oil there also?—A. They have no agent there; no, sir.

Q. No; but do they sell oil in that territory?—A. Oh, yes, sir.

Q. And at that point?—A. Yes, sir.

Q. Do you know of any other case—the case of Drakes Branch, Virginia?—A. Yes, sir; Mr. Tucker.

Q. Who is he?—A. He is an employee of the Southern Railroad there, having charge of the water supply, pumping water for the station.

Q. Was he also the local agent there of the Richmond Oil Company?—A. Yes, sir; of the Richmond Oil Company.

Q. Have you told us now of all the cases of price cutting in your territory during the two years that you have been connected with the company?—A. Yes, sir.

Q. Have you ever come in contact, in the course of your work, with the empty barrels of your competitors?—A. Yes, sir.

Q. Have you gauged them?—A. Yes, sir.

Q. And with what result?—A. I found that they would not
9270 contain the number of gallons when full that the merchant told me the invoices called for.

Q. Did that happen frequently?—A. Twice, that I know.

Q. And whose empty barrels were they?—A. Richmond Oil Company.

Q. Do you remember the place?—A. One was Coles Ferry, Virginia; the other was Keysville, Virginia.

Q. And how much were the barrels overgauged?—A. The greatest was five gallons, and from that down to two gallons.

Q. How did you gauge the barrels?—A. In the usual manner that I gauge all barrels, with a gauge rod that we have for that purpose.

Q. What kind of a gauge rod is that?—A. I don't know the name of it.

Q. Is it a Tagliabue?—A. That is it, Tagliabue.

Q. Is that a standard gauge rod, do you know?—A. Yes, sir.

Q. In addition to your gauging these barrels, did you have anyone else gauge them?—A. Yes, sir; I had the gentleman who bought the oil to gauge them.

Q. The merchant?—A. Yes, sir.

Q. With what result?—A. Confirming what I had said and what I had done.

Q. What was that merchant's name?—A. It was either Mr. Haskins or Mr. Conner. There is a concern of Haskins & Conner at Coles Ferry. I don't know which was Conner and which was Haskins. The other was the buyer of Hanmer Bros., Keysville.

Q. During all of your time with the Standard Oil Company has that company ever initiated any price cut in your territory?—
9271 A. No, sir.

Q. By whom has the cut been initiated in your field?—A. By the Richmond Oil Company and that Red "C" Oil Company.

Q. Always?—A. Yes.

Cross-examination by Mr. KELLOGG:

Q. You mean by "always" these two cases that you have told of?—A. About what?

Q. When you say they have always initiated the cut, you mean the two cases that you have told of?—A. Yes.

Q. That is what I thought. Now, one of those was Robert Jones. Where did he live?—A. Blackstone, Virginia.

Q. The Richmond Oil Company sold at what price?—A. Sold him at 9½ and then 9¼.

Q. Sold part of it at 9½ and part at 9¼?—A. Yes, sir; at different times.

Q. At different times?—A. Yes, sir.

Q. What time was it?—A. I don't remember the date exactly. They are selling it now at that price, or were a month ago when I was there.

Q. And your price was what?—A. 10.

Q. Was your price in tank wagon?—A. No, sir; in barrels.
Q. And their prices were in barrels?—A. Yes, sir.
Q. Did they lay it down at the store for that price?—A. No.
Q. Where did they sell it?—A. Richmond.
Q. At Richmond?—A. Yes, sir.
Q. F. o. b. the cars at Richmond?—A. Yes, sir.
9272 Q. And you were selling f. o. b. cars, Richmond?—A. Yes, sir.
Q. You charged them how much?—A. 10 cents.
Q. 10 cents for the same grade of oil?—A. They said it was.
Q. Who said it was?—A. The merchant, Mr. Jones.
Q. You don't know whether it was or not?—A. I suppose it was. It satisfied his trade in the same way.
Q. You saw the bills for this, did you?—A. No, sir.
Q. Simply he told you that?—A. I know that I could have sold him but for that.
Q. What?—A. He quit buying from us for that reason, I suppose. There was no other reason for him to quit buying.
Q. He told you this was the price?—A. Yes, sir.
Q. Which was it—9½ or 9¼?—A. It was 9½ at one time and 9¼ another.
Q. What did you sell when you said your price was 9¼?—A. In 5-barrel lots.
Q. 10 cents your price was in single-barrel lots?—A. Yes, sir.
Q. But in 5-barrel lots you were selling at 9¼?—A. Yes, sir. They were selling in single barrel at 9¼.
Q. In 5-barrel lots you were selling below what they did part of the time. When was that?—A. We never sold at 9½.
Q. You sold at 9¼?—A. In 5-barrel lots.
Q. 5-barrel lots?—A. They sold at 9¼ from one barrel to any number of barrels.
Q. Do you know how many barrels Mr. Jones bought of them?—A. Generally five; one, two, or three, or different quantities.
9273 Q. Now, this man Barrett—no, Bassett——A. I am Barrett.
Q. At Barretts, Virginia, wasn't it?—A. Bassetts, Virginia.
Q. Oh, Bassetts, Virginia; yes. You say that was benzine. Your price was 14 cents f. o. b. the cars at Bassetts?—A. Yes.
Q. You paid the freight to Bassetts?—A. Yes, sir.
Q. Their price was 13½?—A. Yes, sir.
Q. At Bassetts?—A. Yes, sir.
Q. Delivered at Bassetts?—A. Yes, sir.
Q. Did you haul it to the store for them?—A. No, sir.
Q. Did they haul it to the store for them?—A. No, sir.
Q. Were they the same grade of benzine?—A. They said so.
Q. That is all you know about it?—A. Told me that it was perfectly satisfactory, afterwards.
Q. Now, where was it that you did this gauging?—A. At Coles Ferry, Virginia, and at Keysville, Virginia.

Q. What was the name of the concern whose barrels you gauged?—A. Hanmer Bros.

Q. Hanmer Bros.?—A. Yes.

Q. Wasn't it Hanmer & Sons?—A. Yes, afterwards. It was Hanmer Bros., and I think it was afterwards Hanmer & Sons.

Q. Hanmer & Sons, wasn't it?—A. Yes, sir, at that time.

Q. Wasn't there also a concern named Landrum there?—A. Yes, sir.

Q. Where was he?—A. He was in Keysville.

9274 Q. Now, you gauged one barrel there, did you?—A. At Landrum's? I am not sure.

Q. Did you gauge one at Hanmer & Sons, at Keysville?—A. More than likely I did; I gauged three.

Q. Did you gauge a barrel for Mr. Landrum at some place?—A. I think I did. I don't remember particularly. I could refer to my report book and see.

Q. Did you report to Mr. Landrum at that time that his barrel was short?—A. If I gauged it I did. I am not sure that I gauged it. I have a faint recollection of having done something at Landrum's. I don't know whether I gauged his barrel or not.

Q. Don't you know that you did and that you told Mr. Landrum that it was short or overgauged?—A. I don't recall that particularly. It is probable that I did it. I don't know. If he had a short barrel there it is very likely I gauged it.

Q. Don't you remember that that subject was up with the Standard Oil Company officials?—A. Not in the Landrum case, but in the Hanmer case I recollect——

Q. Wasn't it in the Landrum case? Didn't Mr. Landrum write to the Standard Oil——A. I don't know, sir.

Q. And ask them—or didn't Mr. Hanmer write to the Standard Oil a letter——A. I don't know, sir.

Mr. ROSENTHAL. Wait a minute.

Q. [illegible]r & Sons—wait until I finish my question.

Mr. ROSENTHAL. I object.

Mr. KELLOGG. Wait a minute. You can't object until I put my question.

Mr. ROSENTHAL. Yes, I can.

9275 Mr. KELLOGG. You wait until the question is asked.

Mr. ROSENTHAL. I object to counsel's unwarranted and unlawyerlike method of attempting to get an alleged letter into this record.

Mr. KELLOGG. This witness knows very well about this Landrum case.

Mr. ROSENTHAL. If the witness knows, very well; then let him testify to it.

Q. Isn't it a fact that you did gauge a barrel for Landrum; that you reported it to be short or overgauged; that Hanmer & Sons wrote to the Standard Oil Company at Richmond, Virginia, the following letter: "DEAR SIRS: One of your salesmen, Mr. Barrett, recently called

on me and stated that barrels higher than their actual contents were being put out by the Richmond Oil Co., doing business in your city. He referred to a Mr. Landrum, of Keysville, having been overgauged on one of his barrels several gallons. Is it a fact, and how did he arrive at this result, as if such is the case we will want to have no business dealings with them. At the same time, while we take with a certain amount of deference 'knocking statements' of salesmen, still we would like to know the facts in the case. I, too, have made several purchases from the Richmond Oil Company. Your reply by return mail will be appreciated. Yours, very truly, HANMER & SONS." Didn't the Standard Oil Company write back and not say whether you had gauged Landrum's barrel, and didn't they take it up with you and find out?

Mr. ROSENTHAL. Just a minute. I ask counsel whether he is reading from what pretends to be an original letter or what
9276 pretends to be a copy of an original letter as the basis of his question.

Mr. KELLOGG. Please answer the question.

Mr. ROSENTHAL. Counsel declines to answer. I offer to show, if counsel will hand me the paper that he is reading from, that either he is drawing upon his imagination and has no paper whatever which contains what he just pretended to read or that that which he read from is merely what purports to be a copy of a letter.

Mr. KELLOGG. Now, have you got through?

Q. Will you answer the question now?—A. That is the first I heard of anything regarding that letter.

Q. You never heard of that case?—A. Heard of what case?

Q. The Landrum case.—A. I am not clear about that. I have heard of the Hanmer case. Do you want me to tell what Mr. Hanmer said?

Q. No, you have told about the Hanmer case.—A. I am not clear about measuring the barrel for Landrum, but if he had a small barrel at that time I am pretty certain that I gauged it.

Q. Do you remember of the Standard Oil agent at Richmond taking it up with you and asking you about it?—A. Yes, sir; I recollect the special agent on one occasion asked me if the Richmond Oil Company had said anything to me about gauging their barrels. I told him that Landrum Bros. said that the Richmond Oil Company wanted to know who it was that was gauging their barrels. Do you want to know what I did? I immediately put a quarter on the
9277 counter and said, "Mr. W. A. Barrett, of Richmond, and that pays for the telegram."

Q. Then, you did gauge his barrel, did you?—A. Landrum's; yes, sir.

Q. Then, it is a fact that you did gauge a barrel of Landrum?—A. I don't know about that; I am not clear. I know I gauged Hanmer's barrels.

Q. Do you know that those barrels that you gauged, of Mr. Landrum's, were afterwards gauged by the official gauger in Richmond and found to be correct?

Mr. ROSENTHAL. Wait a moment.

A. I don't know anything about Mr. Landrum's barrels, really.

Mr. ROSENTHAL. Wait. I want to object. When I want to object, you stop. The question assumes that the witness has answered that he gauged Landrum's barrels. The witness has expressly said he hasn't any recollection as to whether he gauged such barrels or not. I object to it upon that ground.

The following question was read: "Do you know that those barrels that you gauged, of Mr. Landrum's, were afterwards gauged by the official gauger in Richmond and found to be correct?"

WITNESS. No, sir.

Q. You never heard that?

Mr. ROSENTHAL. Now wait a minute. What do you mean by "No, sir?" Do you mean to imply by that that you ever gauged Landrum's barrels?

WITNESS. No, sir; I mean to say I don't know anything about it. I don't remember of gauging Landrum's barrel or barrels and I don't know anything about it being gauged.

9278 Q. What did you mean by saying, when the inquiry was made of you if you had gauged Landrum's barrel, that you were the man?—A. I didn't say the inquiry was made of me if I did gauge Landrum's barrel.

Q. Who made the inquiry of you?—A. Hanmer Bros.'said that the Richmond Oil Company wanted to know who it was—not by what authority, but who it was that was gauging their barrels. I told him to wire them and I would pay for the message, or words to that effect.

Mr. ROSENTHAL. That it was you that gauged them?

WITNESS. Yes.

Q. You have no recollection of Mr. Landrum at all?—A. No; not clearly enough to testify. I know Landrum was there, but I don't remember his barrels. If he had a small barrel, I am pretty certain I gauged it.

Q. Do you know that Mr. Hanmer's barrels were thereafter gauged?—A. No, sir.

Q. You don't know anything about that?—A. No, sir.

Q. And that Mr. Hanmer was satisfied?—A. No, sir.

Q. That you were mistaken?—A. I know that I was not mistaken. I don't know anything about Mr. Hanmer being satisfied.

Q. Did your agent show you the correspondence with the Standard Oil Company about Mr. Hanmer's gauging?—A. No, sir; I don't know anything about Mr. Hanmer's gauging except when he gauged with me.

Q. Did your agent in Richmond say that Mr. Hanmer had written to them about this matter?—A. He said something about the Richmond Oil Company kicking about my gauging their barrels, or

rather, asked me if I had heard anything about it, and I told
9279 him about what I have said regarding the Hanmer Bros.

Q. Did he say he had written the Standard Oil Company at Richmond?—A. I don't remember his saying that.

Mr. ROSENTHAL. Did who say that?

Mr. KELLOGG. Hanmer.

WITNESS. I don't remember the Richmond Oil Company agent saying that.

Q. You don't remember it?—A. No, sir.

Q. Do you remember Mr. Hanmer telling you that he had written to Richmond?—A. No, sir; Mr. Hanmer never told me that he had ever written to Richmond.

Q. He never did? Did he quit buying from the Richmond Oil Company?—A. I don't know. I have sold him some since. He is the agent for the Richmond Oil Company at Keysville.

Q. And still continues to be?—A. Yes, sir.

At the close of the testimony of the witness, Beamer, Mr. Barrett stated that he wished to make a correction in his testimony.

Mr. ROSENTHAL. What is the correction?

Mr. BARRETT. I want to say that I understood from counsel that I said the 5-barrel price of oil was ¾ of a cent less than the single-barrel price. I should have said, and which is the regular rule, and everybody knows it, that it is ¼ of a cent instead of ¾ of a cent.

9280 Mr. ROSENTHAL. So that the reduction, instead of being from 10 cents to 9¼ on 5-barrel lots, would be from 10 cents to 9¾?

Mr. BARRETT. Yes, sir.

9281 R. P. FAIR, called on behalf of the defendants, being duly sworn, testified as follows:

Direct examination by Mr. ROSENTHAL:

Q. What is your full name?—A. Robert Pearson Fair.

Q. Where do you live, Mr. Fair?—A. My old home is at Newbury. I make my headquarters at Greenville, South Carolina.

Q. And what is your business?—A. I am general salesman for the Standard Oil Company.

Q. How long have you been general salesman for that company?—A. Since November 1, 1907.

Q. What were you doing before that?—A. From January 20, 1907, I was special salesman for the Standard Oil Company of New Jersey, out of the Baltimore office.

Q. And before that?—A. I was with the Southern Telephone & Telegraph Company.

Q. For how long?—A. About three and a half years.

Q. And before that?—A. I was general salesman, agent, for the Standard Oil Company of Kentucky, out of Atlanta.

Q. Out of Atlanta?—A. Their Atlanta office; yes, sir.

Q. For how long?—A. I was with them, all together, about 7¼ years.

Q. You started with the Standard of Kentucky when?—A. I think it was March 1, 1898.

Q. And you were continuously with them for seven years at that time?—A. 7½ years; yes, sir; about that.

Q. Located at Columbia?—A. No; I was located as agent at
9282 Newbury, Laurens, South Carolina, and I was refined-oil salesman and general salesman in the upper edge of South Carolina, the northwest portion, and practically over the whole of Georgia and the northeast portion of Alabama except that portion around Savannah.

Q. Where did you get your prices from?—A. From the Columbia office; now from the Charlotte office.

Q. Columbia where?—A. South Carolina.

Q. And from whom there?—A. Mr. E. S. Player, the special agent.

Q. In what form?—A. In the form of letters and price sheets; and when I was in the office, if any changes had been made, I would take them from the price books.

Q. Were those changes frequently made in your territory?—A. I think we have had one change in my territory in refined oils, once in the last eleven months, and that only affected two or three stations.

Mr. KELLOGG. You are talking now about since 1907, since you have been at Greenville?

WITNESS. The Standard Oil Company of New Jersey.

Q. Were the changes in refined oil prices frequent when you were in the employ of the Standard Oil Company of Kentucky, in that field?—A. During the seven years I think they changed about three times.

Q. It was almost a uniform price throughout those seven years, was it not, in your field?—A. Yes, sir. Some places were slightly lower than others, but that was on account of freight rates.

9283 Q. Have you any authority in your field to depart from the prices given you by your main office?—A. I have not.

Q. Have you ever done so?—A. I have not, with the exception of one or two instances on gasoline only where prices were made delivered. I met that price, but did not go under it.

Q. Is that true while you were in the employ of the Standard Oil Company of Kentucky?—A. It certainly was; yes, sir.

Q. You not only had no authority to reduce your prices, but as a matter of fact, as I understand you, you did not do so?—A. I did not. In one or two instances, while under the Standard Oil Company of Kentucky, where prices had been reduced, I telegraphed into the Atlanta office and secured permission from them to meet their prices. But I could not make an order unless I had the price named me by the special agent in Atlanta.

Q. You sell lubricating oils also, do you not?—A. Yes, sir.

Q. And did you when you were with the Standard of Kentucky?—A. Yes, sir.

Q. Who were your principal competitors and who are they now in that branch of the trade?—A. At present the Johns Hopkins Oil

Company, of Baltimore; William C. Robinson & Son, Baltimore; the Georgia Oil Company, of Atlanta; the People's Oil Company, of Augusta; the Petroleum Oil Company, of Anderson, who are now erecting a plant in Greenville also, and we have the Atlas Oil Company, and I might say the Valvolene, of Philadelphia, in some respects, and about three dozen Cleveland, Ohio, concerns, who change their names frequently.

9284 Q. It has been charged by the Government in this case that the Standard Oil Company, through its agents, is a persistent cutter of prices, both lubricating oil sales and refined oil sales.—A. Yes, sir.

Q. On the other hand, the claim of the Standard is that it has never initiated a price cut; that price cutting is always done by its competitors in the first instance. Have you had any experience in that regard?—A. In price cutting?

Q. Yes.—A. Do you refer to lubricating?

Q. Yes; by your competitors.—A. Lubricating?

Q. Yes. First, have you?—A. I have; yes, sir.

Q. We will get along better if you will just answer the questions.—A. All right, sir.

Q. Can you give me any instances of price cutting in lubricating oils? Yes or no.—A. Yes, sir.

Q. Let me have them, please.—A. Well, on last Thursday, the 11th, I believe, or the 10th, I was at Lowndesville, South Carolina——

Q. As late as last Thursday?—A. Yes, sir. I called on Mr. Harper, president of the Lowndesville Oil Mills, who had recently purchased his plant from another concern, and solicited his business. He told me that he had telephoned our agent at Anderson for open and contract prices on Capital Cylinder and Atlantic grade engine oil, which we carry in stock at Anderson; he also telephoned Mr. Gambrell, of the Petroleum Oil Company at Anderson, for quotations on an oil similar in character to the Capital Cylinder and Atlantic Red engine.

Q. Were those two last brands your brands?—A. Yes, sir.

9285 That Mr. Gambrell assured him that he could give him an oil, equal in every respect, at 17 cents for the engine oil and 32 cents for the cylinder oil, f. o. b. Anderson.

Q. Your prices were what?—A. Our prices, open, were 38½ for the cylinder, and 34½ for the cylinder under contract; the engine oil was 22½ open, and 20½ under contract. He ordered a barrel of cylinder and engine from the Petroleum people.

Q. And you lost the trade?—A. I lost the trade; I was unable to get it.

Q. Give me any other instances?—A. At Honea Path on last Friday morning, I called on Mr. Brock, who is president of the Donalds (S. C.) Oil Mill, and who is also president of the Eastman Oil Mills, at Eastman, Georgia, and solicited his business. During the last season he had a contract with the Atlas Oil Company, through their Atlanta branch, on cylinder oil at 32 cents and engine oil at 18 cents,

delivered at both of these points; that the contract would expire about the middle of September. I called on Mr. Brock, but Mr. West of the Georgia Oil Company, of Atlanta, which Mr. Boardman of the People's Oil Company is president of, had called on him two days before and secured his business at these prices, guaranteeing them, delivered, oil equal to our Atlantic grade——

Q. Is that Boardman of the Crystal Oil Company?—A. Of the People's Oil Company, of Augusta.

Q. The same Boardman that testified as a witness for the Government recently?—A. Yes, sir; the same Boardman.

Q. You don't mean to say that he cut prices?—A. Mr. Brock
9286 told me that those were the prices Mr. West gave him and I saw the oil barrels, with the brands on.

Q. Do you know of a case at Honea Path, South Carolina, in connection with the Honea Path Oil Mills?—A. Yes, sir.

Q. Tell us about that case?—A. I closed a contract with those people on Capital Cylinder and Atlantic Red engine at our regular prices a year ago. Their contract expired on the 9th of this month, and I called on them to renew their contract. Mr. Austin, the secretary, and Mr. Harper, the president, told me that Mr. Rose represented the Petroleum Oil Company, of Anderson (and Mr. Boardman is vice-president of that company) and had offered them, f. o. b. Anderson, an engine oil for 17 cents and a cylinder oil for 32 cents. I believe that was delivered, at those prices.

Q. What was your cylinder oil selling for at that time?—A. They were paying us 34½ cents under contract.

Q. That would be a cut of 2½ cents on the cylinder oil?—A. Yes, sir.

Q. What was your engine oil selling for at that time?—A. 20½, f. o. b Greenville.

Q. That would be a cut of 3½ cents on the engine oil?—A. Yes, sir. I closed the contract with Mr. Austin on our regular contract prices.

Q. Notwithstanding their offer to make that cut?—A. Yes, sir.

Q. Do you remember the case of the Easley Oil Mills at Easley, South Carolina?—A. Yes, sir. We have had a contract with those people for the last two years on American cylinder.

Q. Was there any cut offered them by the Johns Hopkins
9287 Oil Company, of Baltimore?—A. Yes, sir. I saw an offer written on Mr. Hopkins' visiting card, offering them a cylinder oil at 39 cents a gallon and an engine oil at 17 cents a gallon, delivered.

Q. That was a cut of what—4½ cents on your engine oil?—A. Yes, sir.

Q. And almost a cent on your cylinder oil?—A. Yes, sir. Guaranteeing these oils to equal our American Cylinder and Atlantic Red engine. And I didn't get the business.

Q. Do you remember the case of Struther & Finney, of West Vienna, South Carolina?—A. Yes, sir.

Q. Tell me about that, please.—A. I called on those people about April 14th to renew a contract for their oil-mill department. After talking to Mr. Finney a few minutes he said, "Go ahead and draw up the prices. Are they the same as last year?" I told him they were 34½ for Capital Cylinder and 20½ for Atlantic Red f. o. b. Greenville. I drew up the contract and handed it to him, and he signed it. Then he reached over to a file and said, "Here is a pretty nice offer from one of your competitors," and it was a regular signed contract made up——

Q. A regular blank contract, you mean?—A. Yes, sir, with the prices filled in, from the Atlas Oil Company. If I remember aright their prices were either 28 or 32, delivered, on cylinder oil.

Q. Against your——A. 34½ f. o. b. Greenville, with a 2½-cent freight rate added.

Q. Making a cut of about 4½ cents?—A. 4½. And Atlas Red engine at 16 cents delivered against our 20½, with a 2½ freight rate.

9288 With this was a letter from the Atlas Oil Company, signed by their sales manager (I forget his name) in Atlanta, guaranteeing these oils to equal any oils that he had used during the past season, and they knew that we were selling. I asked Mr. Finney what he was going to do with the papers, and he said he was going to burn them up.

Q. Do you know of any case in connection with the Campobello Oil Mills at Campobello, South Carolina, where a price cut was offered by one of your competitors?—A. Yes, sir.

Q. Tell me about that.—A. I closed the contract for two years with the Campobello Oil Mills I think about the latter part of May. Under our schedule of prices, when we close a contract for two years we can allow them ½ cent per gallon reduction in consideration for a two years' contract. Mr. Caldwell, the president, took that kind of a contract. About two months afterward I met Mr. Caldwell on the train, and he said that Mr. Pinckney, representing the Petroleum Oil Company, of Anderson, had called on him and had tried to get him to break the contract with us and offered him cylinder oil from 3 to 4 cents a gallon cheaper than we were selling, and an engine oil 2 cents a gallon cheaper than we were selling, and delivered, while our prices were f. o. b. Spartanburg. Mr. Pinckney afterwards left the Petroleum people and told me personally that he did call on Caldwell and tried his best to break our contract and offered them cut prices.

Q. What company was Mr. Pinckney connected with?—A. With the Petroleum Oil Company of Anderson, South Carolina.

Q. Do you know of a case in connection with a man by the name of Watson——A. Yes, sir.

9289 Q. Of the Williams & Watson Hardware Company, in which the Union Petroleum Company of Anderson was concerned?—A. We had a contract with the Williams & Watson Hardware Company at Gaffney, South Carolina. It expired about the middle of last March. We were selling him a Castor machine oil under the

name of Eldorado Castor, at 21 cents f. o. b. Spartanburg, with a freight rate of a cent and a fraction a gallon to Gaffney. I went there to renew it, and Mr. Watson told me that he was going to hold it up, was not going to renew with us. I asked him why. He said, "I have just gotten a barrel of Castor machine in from the Petroleum people of Anderson at 18 cents, delivered, which they guarantee equal to your Eldorado Castor." I told him I could not sell them Eldorado Castor any cheaper than I had offered it, but if he wished to buy one of our cheaper grades of Castor machine I would sell it to him, but I could not make him a delivered price of 18 on my cheapest at the present market. And so far he never has closed with us.

Q. Who are your principal competitors, if you have any, in connection with the sale of refined oil and gasoline?—A. The People's Oil Company, of Augusta.

Q. Is that Boardman's company?—A. Yes, sir. The Petroleum Oil Company, of Anderson, which he is president of——

Q. Boardman?—A. Yes, sir.

Q. He is vice-president of the Petroleum Oil Company, of Anderson?—A. Yes, sir; so advertised on their letterheads. The Georgia Oil Company, of Atlanta, of which he is president.

Q. Do you mean to say that he has three companies under three different names?—A. Yes, sir.

9290 Q. Operating in that same field?—A. Yes, sir. The Red "C" Oil and Manufacturing Company, of Baltimore, the Tennessee Oil Company, of Knoxville, and Harwood Bros., of Richmond, occasionally.

Q. The Gulf Refining Company?—A. Oh, yes, sir; the Gulf Refining Company, of Atlanta.

Q. Where do you get your prices for your refined oil?—A. From the Charlotte office now, Mr. Player, special agent.

Q. You used to get them from the Columbia office?—A. From the Columbia office; yes, sir.

Q. That is, Charlotte and Columbia, South Carolina?—A. Yes, sir. Charlotte is North Carolina.

Q. Have you come in contact with any cases of price cutting in connection with the sale of refined oil in your territory by competitors?—A. Yes, sir. You take at Lowndesville, South Carolina——

Q. Well, you have come in contact with them?—A. Yes, sir.

Q. Take the Lowndesville, South Carolina, case in January, 1908, and tell us about that.—A. Up until about November, 1907, we ran tank-wagon service from Anderson to Lowndesville.

Q. How far was that?—A. 26 miles. But owing to the distance and the muddy roads we discontinued. We were getting practically all the trade at that time.

Q. At Lowndesville?—A. Yes, sir; from tank wagon. We put in a delivered price there on Aladdin oil of 16 cents. The orders did not come——

Q. You had a 26-mile haul?—A. Yes, sir.

Q. With tank wagons?—A. Yes, sir.

9291 Q. Over roads that became so bad that you subsequently had to discontinue it?—A. Yes, sir.

Q. Because of the condition of the roads?—A. Yes, sir. We put in a delivered price on our Aladdin oil of 16 cents delivered, allowing the customers at that time $1.10 for their barrels delivered back at Anderson, freight prepaid. We did not get any business. On January first I went down to Lowndesville, and five of the most reputable merchants there, A. D. Barnes, J. T. Lattimer & Sons, Cooley & Spear (Bell & Thompson it was then, now Bell & Bowers), told me that the People's Oil Company, of Augusta——

Q. Of which Boardman is president?—A. Of which he is president, and the Petroleum Oil Company of Anderson, of which he is vice-president, had made contracts with them for the delivery of Sunbeam from the People's Oil Company and Crystal from the Petroleum Company at 15 cents a gallon delivered, and as an extra inducement with every 15 barrels that they purchased they would give them one barrel free. I reported that in to the house, and our prices——

Q. When was that told you by these gentlemen?—A. January 1, 1908. I visited Lowndesville twice since then. Out of an average consumption I guess of 132 barrels a year for that town we are not getting 12 at present.

Q. By reason of what?—A. Of this extra free barrel as an inducement. I asked the company to make a reduction in our price there to try to get the trade. We reduced our price to 15. Still they——

Q. Meeting their price, which was 15?—A. 15, but no extra inducement. They have continued to give that free barrel. I was in Lowndesville on the 9th of this month and called on Bell &

9292 Bowers, to whom we had shipped a couple of barrels recently. The only reason we did it was because all the railroads were washed away from Augusta and we couldn't ship any out. They showed me an invoice from the People's Oil Company, in Mr. Boardman's handwriting, one barrel of Sunbeam oil at 14½ cents, less freight—with freight deducted. That was dated August 29.

Q. So that when you went to 15 cents Boardman went to 14½, less freight?—A. I hadn't visited Lowndesville for two or three months, for possibly two months, before the other day, and our price went down to 15. I didn't know that they had ever lowered theirs. Still they were nearly a cent under us by this free barrel. So Mr. Bell told me that he still got his free barrel with this price of 14½. Now, that is the only invoice I have seen in connection with the Lowndesville prices. But the men I have known for ten years, and as they are buying People's oil, and not from us, they must be getting something—a better price—and they told me they were.

Q. Do you know of any case of price cutting by the Tennessee Oil Company at Hot Springs, North Carolina?—A. Yes, sir.

Q. Tell me about that.—A. I visited Hot Springs in July. Our Asheville agent told me we were not shipping any stuff to Hot Springs except to one firm, who were buying our grade of Aladdin oil at 15 cents f. o. b. Asheville. I called on the merchants at Hot Springs and

found that this firm was the only firm there among five or six who had given us their business. I solicited the business of the other
firms on our Diamond White oil at 14 cents f. o. b. Asheville
9293 and on Aladdin at 15. We have up there a freight of 1.62
cents a gallon. They told me that they were buying their oils, and showed me Tennessee oil barrels, an oil similar to our Diamond White, at 12½ Knoxville, with a freight of 2.40, and that they were allowed $1.25 back in Knoxville for their empty barrels against our $1 f. o. b. Asheville.

Q. Do you know of any case of price-cutting on the part of the Tennessee Oil Company in connection with the sale of benzine to the Murphy Furniture Company at Murphy, North Carolina?—A. Yes, sir.

Q. Tell me about that.—A. We had been selling to the Murphy Furniture Company a few drums of V. M. & P. naphtha——

Q. What do you mean by a "drum"?—A. An iron package holding about 108 gallons.

Q. Go ahead.—A. At 14 cents f. o. b. Marion, North Carolina. The freight from Marion to Murphy is about three and a little over a quarter of a cent a gallon. Mr. Kaufmann, the manager, asked me for our best contract price, which I named at 13 cents. In going back to Murphy on my next trip I called on Mr. Kaufmann and he told me that he had contracted with the Tennessee Oil Company and was buying his V. M. & P. naphtha from them at 11½ f. o. b. Knoxville, with a freight rate of nearly 4 cents—3.92, that is correct—a gallon, and that the Tennessee Oil Company were paying freight charges back on the empty iron drums. We do not pay freight charges back. I said to Mr. Kaufmann that I was sorry he had given them the business. He said: "They told me that if I would give them all my business, such as lubricating oils, they would give me a good price on V. M. & P. naphtha."

Q. That made a cut of about how much—a cent and a quar-
9294 ter?—A. About a cent and a quarter; figuring the drum back,
a little more.

Q. Do you know of any cut at Westminster, South Carolina, to Cannon & Cross?—A. Yes, sir.

Q. By the Georgia Oil Company at Atlanta?—A. Yes, sir.

Q. A concern affiliated with the Red "C" Oil Company?—A. And Mr. Boardman.

Q. Now, tell me about that.—A. Our delivered price on deodorized gasoline at Westminster was 18 cents in wood barrels, and 16 cents—no, I beg pardon. At that time it was 19 cents in wood barrels and 17 cents in iron drums, delivered, purchaser to pay return charges to Greenville, which amounted to ¾ of a cent on the iron package. Cannon & Cross wrote their so-called company at Greenville that they wanted best prices on gasoline. As soon as I could I called on them and they told me that they had closed a contract with the Georgia Oil Company at 12½ cents f. o. b. Atlanta for a gasoline equal [illegible]very respect to the Standard Oil Company's gasoline; that the

Georgia Oil Company would pay return charges to Atlanta on all empty drums, which amounted to practically one cent a gallon, and the freight rate, if I am not very much mistaken, is a fraction over 3 cents per gallon.

Q. That made a gross cut of how much per gallon on the Standard Oil price?—A. About 2¼ cents, figuring the drum back.

Q. Do you know a case as late as July, 1908, in connection with the sale of gasoline to C. H. Ellison at Seneca, South Carolina, by the Gulf Refining Company?—A. Yes, sir. Our price there was 16 cents in iron drums and 18 in wood barrels, delivered. The Gulf people came there and made a delivered price of 14 cents in iron
9295 barrels of 50 gallons capacity. Mr. Ellison showed me the invoice, and bought four barrels from them.

Q. At that cut price?—A. Yes, sir. In that connection the Gulf Refining Company will shortly open up what they call an iron-barrel station at Anderson. Their agent has informed the trade that he is going to give Standard Oil hell; that he is going to cut the price of kerosene from 12 to 11 delivered, and their gasoline from 14 to 13, and to hold orders. That is, just as soon as they can get their warehouse fixed they are going to do the business. That was last week when I was in Anderson.

Q. Do you know of a price cut made to the Anderson Auto Company at Anderson, South Carolina, by the Gulf Refining Company?—A. Yes, sir.

Q. In connection with a sale of gasoline?—A. About July 10 we were naming a delivered price of 15 cents in iron drums, delivered at Anderson on gasoline. Mr. Stribling, the manager, stopped buying from us, and I called on him and asked why he had quit us. He went to his desk, pulled out an invoice which was marked 14 cents, delivered, from the Gulf people, and said, "This is the simple reason." And he said, "Not only this: they are allowing me drayage from the depot to my warehouse and back on the empty drums," which made a cent and a half difference in the total.

Q. A cut made by them?—A. The Gulf Refining Company.

Q. And do you know of a cut made by the Gulf Refining Company at Seneca on gasoline?—A. That was the Ellison case.

Q. I think you have told us about that. At Walhalla?—A. At Walhalla we had a delivered price of 17 in iron drums and 19 in wood barrels. They made a cut of one cent per gallon in their iron barrels, paying return charges on the package to Augusta, which is about a cent and a quarter, as far as that goes. We met their price of 16 cents and are holding the business.

9296 Q. Do you know of any other cases of price cutting?—A. Yes, sir.

Q. On refined oil?—A. Yes, sir. Out from Anderson, half way between Anderson, South Carolina, and Belton, there is a country store called Campbell's store. Mr. Campbell had been buying oil for the last two or three years from our wagon that supplies Honea Path from Anderson, paying us 12½ cents for tank-wagon oil. Our

driver happened to go by Campbell's store on one occasion and Campbell said he was full up, did not need any. He asked him why, and he said, "Well, I am getting my oil cheaper." He said, "I don't see how you can get it cheaper." He said, "The Petroleum people have inaugurated a tank-wagon service to Belton and on their last trip filled my tank for 12 cents," a cut of one-half cent to a man that we had been selling to.

Q. Do you know of a case at Lowndesville, South Carolina, in connection with the People's and the Gulf?—A. In that connection there, I answered it.

Q. You have already answered that?—A. Yes, sir.

Q. Do you know of any other cases of cuts that you have in mind now?—A. Yes, sir. The Gulf people recently quoted Leigon's Drug Store, of Spartanburg, South Carolina, gasoline delivered at 13 cents per gallon in iron barrels.

Q. Against your price of what?—A. Of 14 cents, deliveries from tank wagon.

Q. Making a cut of how much?—A. One cent per gallon.

Q. Any other cases?—A. Well, it is a hard thing to keep

9297 up with the Gulf people, because——

Q. You mean with their cuts?—A. I mean with their cuts; because I have no price until I hear what they are offering at, and then I sell it for what they are offering it at; but I have not cut under their prices.

Q. That is on gasoline?—A. On gasoline; yes, sir.

Q. Have you come across any cases of overgauging of barrels by these competitors of yours?—A. Yes, sir; one or two.

Q. Have they been overgauging their barrels in those cases?—A. I found so; yes, sir.

Q. So your experience has been that while these highminded gentlemen were testifying as witnesses for the Government at Washington, and since they have so testified about price cutting on the part of the agents of the Standard Oil Company, their agents have been out in the field cutting prices right and left, wherever they could?—A. I have certainly found that to be a fact, sir. I know they have gotten some of my business by cutting, especially on lubricating oils, and on refined, too.

Cross-examination by Mr. KELLOGG:

Q. I believe you said you were seven years traveling salesman for the Standard Oil Company of Kentucky?—A. I was seven years agent and traveling salesman.

Q. Agent and traveling salesman for the Standard Oil Company of Kentucky—A. Yes, sir; about that.

Q. Commencing about March 1st, 1898?—A. Yes, sir; I think so.

9298 Q. And you covered all of Georgia?—A. Practically all except the southeastern portion, around Savannah.

Q. How much of North Carolina?—A. None in North Carolina, then.

Q. How much of South Carolina?—A. I covered about ten counties in the northwestern section of South Carolina while under Atlanta.

Q. Now, as such agent, where was your headquarters?—A. My first was at Newberry, South Carolina.

Q. When you were traveling salesman for the Standard Oil Company of Kentucky, where did you travel from?—A. Atlanta.

Q. That was your headquarters?—A. Yes, sir.

Q. And you covered the State of Georgia, did you?—A. When I first started out I covered about one-fifth of the State of Georgia, and the Atlanta territory of South Carolina, about ten counties.

Q. Afterward did you cover all of the State of Georgia?—A. I was transferred to different divisions. The company then would transfer us all around, so that we knew the whole State.

Q. And you said during those seven years you only knew about three changes in prices?—A. In my particular territory; yes, sir.

Q. Prices of refined oil?—A. Of refined oils that I had to market myself.

Q. Now, can you remember what years those changes were in?—A. I can not. It has been too far back.

9299 Q. Don't you know, as a matter of fact, that in the city of Atlanta the price changed nearly every month in some years?

Mr. ROSENTHAL. Was Atlanta in your territory?

WITNESS. Yes. I do not know, because there was not any concern in Atlanta doing business when I was with the Standard Oil Company except the People's Oil Company of Atlanta.

Q. What was the price of oil in Atlanta in 1897?—A. In 1897?

Q. Yes.—A. I can't tell you, because I did not sell any oil in Atlanta.

Q. You said in your territory the price only changed three times in seven years?—A. That is right; about three times.

Q. Now, what was the price in Atlanta in 1897?—A. I don't know, because I did not travel in Atlanta; had nothing to do with Atlanta prices.

Q. You did not know anything about Atlanta?—A. No, sir.

Q. Don't you know that the price got down as low as 8 cents in 1897 there?—A. I do not.

Mr. ROSENTHAL. He has not testified to anything connected with Atlanta.

Q. Do you know what the price was in any of those years in Atlanta?—A. I do not.

Q. There was sharp competition, was there not, in Atlanta?—A. Not as I know of.

Q. You don't know anything about that?—A. No, sir.

Q. What was the price in Rome?—A. When?

Q. In 1897?—A. I don't know, because I was not traveling

9300 Rome territory in 1897.

Q. In 1898 what was the price in Atlanta?—A. I don't know that, sir. In 1898 I was traveling South Carolina territory.

Q. When were you traveling in Georgia?—A. I started with the company, I believe I said, in 1898, didn't I?

Q. Yes.—A. Well, I did not know a thing about 1897 or 1898, because I was not with them.

Q. When were you traveling from Atlanta?—A. I was traveling from Atlanta about 1899, the beginning of the year 1899, for nearly seven years and a half.

Mr. ROSENTHAL. What do you mean by "traveling from Atlanta?"

WITNESS. From Atlanta. I never worked or solicited city trade in Atlanta.

Q. Did you ever know anything about the prices and price changes in Atlanta?—A. I did not.

Q. Or Rome?—A. I traveled around Rome for about six weeks once.

Q. How many times did the prices change in Rome during those seven years?—A. Why, I guess they could have changed a hundred times during those several years, but I don't know of any change in Rome.

Q. Very well; then you don't know what you are talking about when you say the prices changed in your territory only three
9301 times in seven years?—A. I do know what I am talking about in my particular territory.

Q. What was your particular territory?

Mr. ROSENTHAL. Why didn't you ask him that first, instead of shooting all around the mark?

Mr. KELLOGG. He said all of Georgia.

WITNESS. I did not say all of Georgia, I beg your pardon.

Q. Do you know anything about the prices at Rome during any of that seven years?—A. The price at Rome, Georgia, when I traveled Rome, if I remember right, was 15 cents on fireproof oil in barrels, 14 cents for Water White, 16 cents for Red oil. I forget the name we used to put it out under; and tank wagon oil was 12½ and 13.

Q. How many times during the seven years did it change?—A. In Rome?

Q. Yes.—I could not tell you.

Q. A great many times, didn't it?—A. I don't know.

Q. And it went down to 11 cents, didn't it?—A. I don't know.

Mr. ROSENTHAL. He says he does not know. What is the use of wasting time on it.

Q. Do you know anything about Athens?—A. Yes, sir; I have traveled through Athens.

Q. How many times did the price change in Athens during the seven years?—A. During the seven years I was connected with the Standard Oil Company the price changed once in Athens.

Q. Only once?—A. Yes, sir.

Q. During the seven years?—A. Yes, sir.

Q. Let us see about that. From what year was that—from
9302 1898?—A. From 1898.

Q. What was the price in 1898?—A. I don't remember, sir.

Q. Was it not 11½ for two months?—A. I can't say.

Q. Wasn't it 9 cents for certain months in 1898, and 8½ for certain other months, and 8¾ for certain other months?—A. In 1898 I was not in Georgia. I think I was at Newberry, South Carolina.

Q. In 1899?—A. I was not.

Q. In 1900?—A. I was in a part of northeast Georgia.

Q. Do you know anything about Athens in 1900?—A. I do not.

Q. 1901?—A. I think I first began going to Athens about 1902.

Q. Well, in 1902 how many times did the price change?—A. In 1902 I don't know whether it changed at all. I can't say positively.

Q. You don't know how many times it changed?—A. I said I don't know whether it changed at all.

Q. I think you said a little while ago it only changed once while you were at Athens?—A. When I was in Athens?

Q. Yes.—A. It did change once when I was traveling in Athens.

Q. Only once?—A. Oh, you try to mix people up. Now, you wait a minute. I told you that I was shifted from one territory to another. I only mean——

Q. What do you mean?—A. Wait a minute. Let me answer. I mean it only changed once while I was visiting Athens in the seven years, as I remember.

Q. How many times did you visit Athens in the seven years?—A. Well, I can't answer a question like that, because sometimes I went there four or five times a week, and sometimes I was not there for a year.

9303 Q. What do you mean by the price changing only once at Athens while you were there?—A. I mean that we raised our price one-half a cent.

Q. At one time?—A. At one time, on barreled oil.

Q. That is the only change you ever knew of?—A. That is the only change I remember of; yes, sir.

Q. Now, the price tickets show that it changed every year and several times a year.—A. Whose price tickets?

Q. Your price tickets.—A. I don't remember that. I don't know anything about it.

Q. Do you know anything about it?—A. I know when I called there; that is all.

Q. Only once, that you recollect?—A. Yes, sir.

Q. You don't know how many other times it did change?—A. That is all I remember of.

Q. Did you know a man by the name of Taylor, a driver in Athens for the Standard Oil?—A. I did not.

Q. Never heard of him?—A. I can't remember. I might have known Taylor and might not. As I stated, it has been practically five years since I was with the S. O. Company of Kentucky. If I had kept all my records, like you all have there, I could possibly have answered all those questions, but I have not got them.

Q. Do you know a man by the name of Parks, a tank-wagon driver in Athens?—A. I don't remember.

Q. Don't remember him?—A. No, sir.

Q. Let us see about some other towns where there were
9304 changes. What other places were you agent at or traveling in?—A. Well, name your towns. I can't exactly——

Q. Elberton?—A. I was at Elberton; yes, sir.

Q. How many times did the price change there during the seven years?—A. I can't tell you positively.

Q. You don't know?—A. I could not make a statement, because I have no records before me.

Q. Lagrange?—A. I went to Lagrange about five times.

Q. How many times did the price change there during the seven years?—A. During my visits it changed none.

Q. During your visits?—A. Yes, sir.

Q. Do you mean by "during your visits" at the time you were at the particular town that the change took place while you were there? Is that what you mean?—A. No; I mean while I was traveling. For instance, if I was assigned to that territory for a month or two months, that I don't remember any change in Lagrange.

Q. How long were you assigned to Lagrange?—A. I told you that I made about four or five trips.

Q. How many months did it take?—A. I think I was on that territory from two to three months.

Q. What year?—A. I can't tell you. I don't know.

Q. You mean simply, that during that two or three months you don't remember any change?—A. No, sir. I am not positive that there was no change.

Q. Tell us what you mean by the answer that you made to Mr. Rosenthal that during the seven years you were traveling in Georgia you only knew of three changes.—A. To my positive
9305 knowledge I only knew of three changes—that is, in the prices that were given us. One of those changes I remember was a drop of a cent a gallon. Then I remember an advance. Then I remember another drop.

Q. And that is all you remember?—A. That is all I remember in my particular territory.

Q. You do not pretend to say that those were all the changes?—A. I did not say that, in the first place.

Q. Isn't it a fact that there were hundreds of changes in Georgia?—A. I don't know.

Q. And that various towns differed radically in their prices?—A. If in my territory, they did not.

Q. Were not the prices at Athens 8 cents, and at the same time at Rome 12 cents, for months?—A. I don't know.

Q. In Atlanta 8 and 9 cents, and towns right around there 11, 12, and 13 cents for months?—A. In barrels, possibly so.

Q. No, sir; tank-wagon deliveries?—A. I don't know.

Q. You don't know anything about it?—A. No, sir.

Q. I did not suppose you did. That is the reason I was asking you. Now, are you as certain about all the rest of your testimony as you are about the testimony as to changes in Atlanta?—A. I am certain about my testimony that I have given you about those changes.

Q. And you are just as certain about those as you are about your other testimony?—A. Well, you go ahead.

Q. Now, you talk about selling cylinder oil at 32 cents a gallon and 34 cents. What is your Standard price for cylinder
9306 oil?—A. We have about fifteen or twenty grades.

Q. And you have fifteen or twenty prices, then?—A. No, sir; we have a price for each particular grade, an open and a contract price.

Q. Then you have fifteen or twenty prices, haven't you, for oil?—A. For different grades.

Q. Yes.—A. Sure.

Q. That is what I asked you. Now, perhaps the other fellows may have as many grades as you have, haven't they?—A. No doubt they have as many names.

Q. How do you know what grade of oil they sold at these various places?

Mr. ROSENTHAL. He has told of it in every instance.

Q. Are their grades exactly like yours?—A. In what respect?

Q. In price and in quality.—A. I would not think they were in quality, against ours.

Q. Do they have fifteen or twenty different grades?—A. I don't know. I presume they have.

Q. And fifteen or twenty different prices?—A. I presume they have.

Q. What is your highest grade of cylinder oil?—A. The highest grade of cylinder oil that I market in my territory is 600 W, Vacuum oil.

Q. I mean, what price?—A. 65 cents, open price.

Q. What is your ordinary grade of cylinder oil that you sell?—A. One of the best grades of cylinder oil, and the most popular grade of cylinder oil, is our Capital cylinder.

9307 Q. What is the price of that?—A. The open price, 38½.

Q. Is that the kind of cylinder oil they sell to railroads?—A. I know nothing about railroad business.

Q. How many grades of car oil have you?—A. I do not sell car oil. It is not in my line.

Q. Machinery oil—what do you call this 17 and 20 cent oil?—A. Why, we have about eight grades that we try to market.

Q. Eight grades, eight different prices, then?—A. Eight different grades I said.

Q. Then do you have the same price for each grade, or a different price for each grade?—A. I should say we had a price for each grade of its own quality.

Q. Then you have eight different prices, haven't you, for the oil?—A. Yes, in eight different grades.

Q. That is what I was asking you. Do your competitors have eight different grades, or seven or eight?—A. I don't know. I presume they have.

Q. You don't know anything about their grades? Do you know anything about their quality of oil?—A. Only when an engineer tells me it is no good.

Q. That is all?—A. That is right. That is pretty good.

Q. You are not an expert on oil?—A. I am not.

Q. You know nothing about the qualities of engine and cylinder oil?—A. I think I can tell a pretty good grade of cylinder oil.

Q. Do you know anything about the quality of your competitors' oil?—A. I have seen it.

9308 Q. You think it is no good?—A. I did not say that.

Q. But engineers tell you it is no good?—A. When an engineer says that, it is a different thing. I do not say so.

Q. Engineers tell you it is no good, do they?—A. Yes, sir.

Q. How many engineers have told you that?—A. Since I have been with the Standard Oil Company I guess I have had twenty or thirty.

Q. Then they ought to sell it cheaper if it is no good, oughtn't they?

Mr. ROSENTHAL. Ought to give it away. We will agree with that.

WITNESS. Surely they ought.

Q. What is that?—A. I think they ought to give it away.

Q. And if it is no good you think they ought to sell it cheaper?—A. But they try to convince others that it is better, or as good.

Q. Now, where were you traveling in June, 1904?—A. I think I was with—let's see, June, 1904?

Q. During the year 1904.—A. What was the date?

Q. June, 1904, I said.—A. I mean what day in June was that?

Q. Oh, any time during June. During the year 1904 where were you?—A. I think I was around Greenville, South Carolina.

Q. Do you know you were?

Mr. ROSENTHAL. He says he thinks he was.

Q. During that whole year?—A. I traveled the South Carolina territory, and a part of our territory around Elberton and Deercourt and Gainesville, Georgia.

9309 Q. Around Augusta?—A. I was not.

Q. You were not near Augusta during any of that year 1904?—A. I went down as far as a place called McCormick, on the C. & W. C. Railroad.

Q. You were not in Augusta during that year?—A. Oh, I passed through Augusta a dozen or two dozen times.

Q. Did you have any business in Augusta during that year 1904?—A. From a Standard Oil standpoint?

Q. Yes.—A. No, sir.

Q. None whatever?—A. No.

Q. During no part of that year?—A. I made no shipments from Augusta that I can name except of lubricating oils.

Q. From Augusta. Did you have any business in Augusta during that year on the sale of lubricating oils?—A. No, sir; I did not.

Q. When was Augusta in your territory that you traveled?—A. I worked Augusta, Georgia, for one week on specialty goods alone, during my entire connection with the Standard Oil of Kentucky.

Q. Did you ever know the Augusta Brokerage Company?—A. I have heard of them.

Q. Whose company was that?—A. I don't know.

Q. Mr. Daniel, did you know him?—A. No, sir.

Q. Did you ever know a man by the name of F. R. Nolls, agent of the Standard Oil Company?—A. I did.

Q. Where was he situated in 1904?—A. I think he was in Augusta.

Q. In 1904?—A. I am not positive.

9310 Q. Did you know that Mr. Nolls advertised in the newspapers at that time that he would sell lubricating oil, and made a contract to that effect, for a price of one-half cent under any price that the People's Oil Company would make?—A. I heard of it, but I did not see it.

Q. You heard that he so advertised?—A. I did.

Q. And he made a contract to that effect, didn't he?—A. I don't know that.

Q. You heard of it at the time?—A. I heard it, not from a Standard Oil man, but from Mr. Boardman himself.

Q. You saw it in the newspapers too, did you not?—A. I did not.

Q. Were not the newspapers full of it?

Mr. ROSENTHAL. Boardman made that claim.

WITNESS. Boardman told me in the Albion Hotel that Frank Nolls had.

Q. Did Mr. Nolls publish in the newspapers such a contract?—A. I don't know.

Q. Was there published in the newspapers such a contract?—A. I don't know.

Q. Who was the Augusta Brokerage Company?—A. I don't know.

Q. You say you had heard of them?—A. I had heard that there was an Augusta Brokerage Company.

Q. Selling lubricating oil?—A. I don't know.

Q. All you know of this is what Mr. Boardman said, what you heard Mr. Boardman say, is it?—A. I have known Mr. Horace Boardman for about——

Q. I asked you if all knew of this was what Mr. Boardman

9311 told you?—A. The first I did.

Q. Is that all you know of the fact?—A. And the rumors I had heard other people talking of.

Q. You heard other people talk about it, did you?—A. Yes, sir.

Q. Who?—A. Different traveling salesmen on the road, asking me questions.

Q. What did you hear from them?—A. Hear from whom?

Q. From these different traveling salesmen on the road, about this contract?—A. Why, they were simply asking me if Nolls had made such a contract, and I told them I did not know anything about the Augusta business; did not even know of Nolls's prices.

Q. It was talked of a good deal, was it not, among the salesmen?—A. Why, naturally a newspaper article would be talked of.

Q. Well, it was, was it?—A. Somewhat.

Q. Talked about a good deal by the traveling salesmen?—A. Well, I didn't say it was talked of a good deal. It dropped out after a while.

Q. Yes, but for a while before it dropped out it was talked of a good deal, was it?—A. I think so.

Q. Did you read the newspapers from Augusta at that time?—A. When I got hold of an Augusta newspaper I occasionally read them. I did not make it a practice.

Q. Did you get hold of one that had this advertisement in it, or this contract?—A. I did not. I have never seen it yet.

Q. You have never seen it yet?—A. No, sir.

9312 Q. What did you understand the contract was?—A. That Nolls had simply made a contract to deliver so much oil at a certain price.

Q. A price one-half cent under any price that the People's Company would make?—A. I did not.

Q. You did not hear that?—A. No, sir.

Q. What was the price that he had agreed to make?—A. I don't know.

Q. You don't know anything about it?—A. No, sir.

Q. Would there be a good deal of excitement about the fact that Mr. Nolls had made a contract to deliver a certain amount of oil at a certain price?—A. I don't see why it would, unless it was right in Augusta. It did not interest me at all, and did not touch my territory at all.

Q. Then you never heard that he made a contract to sell one-half cent under what the People's would sell for? You never heard of it?—A. I did afterwards.

Q. You heard of it afterwards?—A. Yes, sir; when I was not with the Standard Oil Company of Kentucky.

Q. You heard of it after you left the Standard Oil Company?—A. Yes, sir; in talking to Mr. Boardman, of Augusta, Georgia.

Q. Now, did you ever hear that from anybody else except Mr. Boardman?—A. Boardman was the man that told me.

Q. Did you ever hear it from anybody else?—A. From Mr. Frank W. Plumb, his brother-in-law, who used to be a traveling salesman of the Standard Oil Company.

Q. Did you ever hear it of anybody else?—A. Possibly, but I don't remember; but I do remember those two.

9313 Q. Did you hear it from the traveling men at the time, in and around Augusta?—A. I can't say that I did, positively.

Q. You can't say that you did?—A. Well, I don't say that I did.

Q. Do you say that you did not?—A. I say that I could not say positively.

Q. Did you ever hear of a town called Denmark, South Carolina?—A. Yes, sir.

Q. Where is it?—A. I think Denmark is about 32 miles south or southeast of Augusta, on the Coast Line road.

Q. How large a place is it?—A. I should imagine about 500 people.

Q. About a thousand people, isn't it?—A. I don't know. I have not been to Denmark but once.

Q. It is a town of five hundred or a thousand people, isn't it?—A. Yes, I presume so; I don't know.

Q. Do you know Denmark, Georgia?—A. I never heard of it.

Q. Now, Mr. Boardman sells oil at Denmark, South Carolina, doesn't he?—A. Yes, sir.

Mr. ROSENTHAL. That is the town that had 15 people in it.

Q. Wait a minute. Boardman sells oil at Denmark, South Carolina, doesn't he—his company?—A. I have heard that he did. He told me that he did.

Q. Now, Mr. Collings—you have heard of Mr. Collings, haven't you? C. T. Collings, of the Standard Oil of Kentucky; did you ever hear of him?—A. I have.

Q. Oh, you have?—A. Yes, sir.

9314 Q. Mr. Collings got on the stand here the other day and made a great flourish of trumpets about Denmark, Georgia. Did you ever hear of that place?—A. I never heard of Denmark, Georgia.

Q. He said that Mr. Boardman talked about selling oil at Denmark, Georgia, when, as a matter of fact, Mr. Boardman talked about Denmark, South Carolina. You have heard of Denmark, South Carolina?—A. I have. There may be a place called Denmark, Georgia.

Q. And that is a place of five hundred to a thousand people, isn't it?—A. Possibly so; I don't know that.

Q. It has more than fifteen people, hasn't it?—A. Oh, yes, sir.

Mr. ROSENTHAL. Is that the point?

Mr. KELLOGG. It is a point you have been making, and about the same size. Most of them are just about Denmark's size—Denmark, Georgia, I mean.

Mr. ROSENTHAL. That is, most of your points——

Mr. KELLOGG. No; yours.

Mr. ROSENTHAL. Are about as effective as that last one. You have taken ten minutes to show that there is a town in Georgia by the name of Denmark, and ten more minutes to show that there is a town in South Carolina of that name.

Mr. KELLOGG. You spent a long time with Mr Collings, as though it was a very important thing.

Mr. ROSENTHAL. I did not spend thirty seconds with him on that.

Q. You make a great point here about a cut at Lowndesville, South Carolina?—A. Yes, sir.

Q. You said you were selling oil there at 16 cents a gallon
9315 delivered.—A. That is right.

Q. As a matter of fact, you had been selling from tank wagon, hadn't you, prior to that time?—A. Yes, sir.

Q. At what price?—A. If I am not mistaken our price was 13½ delivered in stores, cash, from the tank wagons.

Q. At Lowndesville, South Carolina?—A. Yes, sir.

Q. 13½ cents?—A. That is right.

Q. And had been all during that summer, had it?—A. That is right.

Q. That was during the summer of 1907?—A. I believe so.

Q. And you took out that price in the winter, did you, or did you leave it?—A. Well, I left the price, but could not haul the oil.

Q. Could not haul the oil? And the other men went in there and sold oil at about 15 cents, did they?—A. They did.

Q. Delivered?—A. They did.

Q. Which was 2 cents over your price that you had been charging, was it not?

Mr. ROSENTHAL. No.

WITNESS. No.

Q. You had been charging 13 all summer?—A. I said 13½, and they sold it at 15 delivered. Now, do some figuring.

Q. Now, you answer the question.—A. You delivered oil in tank wagons, didn't you?

Mr. ROSENTHAL. Wait a minute. Go ahead and finish your answer. Don't answer any more questions until you finish your last answer.

9316 Q. You delivered oil in tank wagons during the entire summer of 1907 at 13 cents or 13½——

Mr. ROSENTHAL. Just finish your last answer.

WITNESS. We delivered tank-wagon oil at 13½ cents each, delivered at the stores. There is no barrel in Lowndesville.

Mr. ROSENTHAL. Go ahead with your answer.

WITNESS. There is no barrel to be taken off of this. The People's Oil Company delivered their oil at 15 cents. They gave $1 back for their barrels f. o. b. the depot at Lowndesville. That reduced it down practically two cents a gallon. Figure that. They gave an extra barrel containing from 50 to 52 gallons of oil free with every fifteen. Now figure that in. How about it?

Q. Now, that is——

Mr. ROSENTHAL. He doesn't want to figure that.

Q. They gave how much for each barrel—5 gallons, did you say?—A. No; I did not say that.

Q. How much?—A. I said $1 cash for the empty barrel.

Q. Oh, yes.—A. Now, with every fifteen barrels purchased they presented their customer a gift barrel of from 50 to 52 gallons.

Q. That is a discount of one-fifteenth, isn't it?—A. I don't know. You figure it down; figure it all down.

Mr. ROSENTHAL. They have got some brilliant mathematicians on that side of the table. You want to watch out for them.

Q. Now, just what would be the net price that they got their
9317 oil at?—A. Who?

Q. The merchants at Lowndesville from the People's Oil Company.—A. Figuring that barrel for every 15 would leave 13, wouldn't it?

Q. A dollar a barrel is 13?—A. Yes.

Q. Very well.—A. Now, figure off the free barrel with every 15. How much does 15 barrels figure into that? About another cent, doesn't it?

Q. How much would it be?—A. About 2 cents a gallon. You have got the figures before you. I will take your figures.

Q. One-fifteenth of 13 cents is 2 cents, is it?

Mr. ROSENTHAL. Oh, no——

WITNESS. I did not say that.

Q. It would be one-fifteenth of 13 cents a gallon. In other words, he gave them just about a cent. One barrel in 15 is one-fifteenth, isn't it?—A. Yes.

Q. Then it would be one-fifteenth of 13 cents, wouldn't it?—A. No.

Q. What would it be?—A. You figure it. I say it was a gross cut of about 2 cents a gallon.

Q. As a matter of fact, it is a gross cut of less than a cent, isn't it?—A. I don't think so.

Q. Well, we will see about that. What grade of oil were they selling?—A. They claimed that their oil was equal to our Aladdin oil.

Q. They claimed it was?—A. Yes, sir.

Q. Well, was it?—A. I don't think it was.

9318 Q. Then they ought to sell it a little cheaper oughtn't they?—A. Yet they made that claim, and some of the merchants said it was.

Q. You did not think it was. Well, you spoke of the Murphy Furniture Company?—A. Yes, sir.

Q. Where are they situated—Murphy, North Carolina?—A. Yes, sir.

Q. You say you had been selling them gasoline in drums at 14 cents?—A. Open-market price; yes, sir. They would not close a contract.

Q. You had been selling at 14 cents, had you?—A. Yes, sir.

Q. Had you been selling them?—A. Had I been selling them?

Q. Yes.—A. At 14 cents—I sold them several drums; yes, sir.

Q. F. o. b. the cars where?—A. Marion, North Carolina.

Q. What was the freight from Marion, North Carolina?—A. The freight from Marion to Murphy is about 3.32.

Q. I don't want to know "about" what it was. I want to know what it was.—A. 3.32.

Q. Exactly 3.32 per gallon?—A. Yes, sir; I think so.

Q. Do you know that it was?—A. The railroad company told me so.

Q. What was it per hundredweight?—A. You figure 3.32 by 8, d that will give you per hundredweight.
Q. You don't know how much it was per hundredweight?—A. ell, you figure it out.
Q. Where did the other men ship theirs from?—A. Knoxville.
Q. What was the freight from there?—A. 3.92.
Q. Who told you that?—A. I saw the figures on a freight bill.
19 Q. You saw the figures on a freight bill, carried out at 3.92 per gallon?—A. I did not. It was carried out, so much per um; but, in figuring oil rates, you take the freight rate and multiply 8, and it gives you the price per gallon.
Q. And you figured it out, did you?
Mr. ROSENTHAL. Figure it out for these gentlemen.
Q. I say, you figured it out, did you?—A. I did. The figures were own to me by the purchaser.
Q. How many different grades of gasoline are there?—A. V. M. P. naphtha; there is only one that I know of.
Q. You only have one grade?—A. Yes, sir.
Q. There are various grades of gasoline, aren't there?—A. There e four grades.
Q. And they vary in price, don't they?—A. Not very much in my rritory.
Q. From 1 to 3 and 4 cents?—A. Yes; that is true.
320 CHARLES W. BEAMER, called on behalf of the defendants, beduly sworn, testified as follows:

Direct examination by Mr. ROSENTHAL:

Q. What is your full name?—A. Charles W. Beamer.
Q. Your place of residence?—A. Oakland, Maryland.
Q. For how many years?—A. I have been living there for two ears this coming February.
Q. What is your employment?—A. General salesman for the Standard Oil Company, of Baltimore.
Q. For how long?—A. Nine years the first of this coming December.
Q. Traveling where?—A. I travel in Maryland and West Virginia.
Q. Reporting where?—A. To Baltimore.
Q. And do you get your prices from Baltimore?—A. Yes, sir.
Q. Are you authorized to deviate from those prices in your territory?—A. No, sir.
Q. Have you ever done so?—A. No, sir.
Q. Must you adhere and have you strictly adhered to the prices which you have gotten from the main office at Baltimore?—A. I have.
Q. During the entire nine years that you have been connected with the company?—A. Yes, sir.
Q. Who are your principal competitors?—A. The Crown Oil & Wax Company is our principal competitor on refined oil and naphtha.
Q. The Crown Oil & Wax Company, of Baltimore?—A. Of Baltimore; yes, sir.

9321 Q. The Waverley of Pittsburg, also?—A. Well, very little.

Q. Any Cleveland company?—A. Yes, sir; the Energine Refining Company, of Cleveland, Ohio.

Q. How is gasoline graded—by degree number?—A. By degree number.

Q. So that two gasolines of the same degree are supposed to be the same kind of gasoline?—A. Supposed to be the same thing; yes, sir.

Q. So that it is an exceedingly easy matter, is it not, if you know the degree of gasoline that your competitor sells, to compare his price with your gasoline price?—A. Yes, sir.

Q. And while there may be many different grades, the prices can always be followed in that way, can they not?—A. Yes, sir.

Q. Do you know of any instances of price cutting in connection with the sale of refined oil or gasoline in your territory?—A. Yes, sir.

Q. Tell me some of them, please?—A. The Crown Oil & Wax Company cut our tank-wagon price at Mt. Savage, Maryland, one cent per gallon. Our price being 9 cents, they cut it a cent, making it 8 cents, and we met the price.

Q. Where was that?—A. Mt. Savage, Maryland.

Q. That was your tank-wagon price?—A. Yes, sir.

Q. Which you say was what?—A. 9 cents.

Q. It was cut—when was that?—A. That was about a year ago.

Q. And the Crown Oil & Wax Company, had they been doing business in that town before?—A. They had been doing a little. They had tried to market the oil at 10 cents a gallon, and finally they cut it to 8 cents.

9322 Q. Well, your tank-wagon price was 9 cents?—A. 9 cents.

Q. And how did they represent their oil as compared with yours?—A. They represented it to be a higher grade of oil than ours.

Q. Did you meet the cut?—A. We met the cut; yes, sir.

Q. And you thereupon came down on your price, from 9 cents to 8 cents?—A. From 9 cents to 8 cents, the same as the Crown Oil & Wax Company.

Q. Did you hold your business?—A. We are getting part of it.

Q. When they made the cut to 8 cents, did they take away trade of yours?—A. Yes, sir; they took away some trade. They are getting about a fourth more than what they had at their 10-cent price.

Q. They are getting what?—A. They are getting about a fourth more of the trade now than they were when they were selling at 10 cents.

Q. Do you know of the case of the Waverley Oil Company, of Pittsburg, in connection with the sale of gasoline to the Potomac Hardware Company?—A. Yes, sir.

Q. Tell me about that.—A. They sold gasoline at 18 cents f. o. b. Pittsburg, while our price was 18½ f. o. b. Pittsburg.

Q. For the same degree gasoline?—A. For the same degree, but in that they had charged $1.25 for the barrel; so consequently the freight made their price a little higher than what ours was.

Q. That is, they charged $1.25 for the barrel?—A. They charged
1.25 extra for the barrel; yes, sir.
Q. Which $1.25 was returned in the event that the barrel was re-
turned?—A. Yes, sir.
323 Q. In which event the price would be lower than your
price?—A. In which event the price would be more than our
price.
Q. Do you know of any cut made by the Energine Refining Com-
pany?—A. Yes, sir.
Q. Of deodorized naphtha?—A. Yes, sir.
Q. Is naphtha also sold by degree number?—A. Yes, sir.
Q. And naphtha of the same degree number is supposed to be of
the same quality?—A. The same quality.
Q. Throughout? Well, tell me about that.—A. We were selling
the Elkins Pail & Lumber Company, of Elkins, West Virginia, at a
price of 12½ cents in steel barrels f. o. b. Cumberland. The Ener-
gine Refining Company quoted them a price of 8 cents in steel bar-
rels f. o. b. Cleveland, Ohio. The freight rate from Cumberland to
Elkins is 25 cents a hundred, or a dollar a barrel, and the freight
rate to Elkins from Cleveland, Ohio, is 35½ cents a hundred, or $1.36
a barrel; making a cut of about 3½ cents.
Q. Did they get the business?—A. They got the business, and are
still getting it.
Q. By reason of that cut?—A. By reason of that cut.
Q. When was that?—A. That was along early in the spring, I
think about February, or possibly the fore part of March.

Cross-examination by Mr. KELLOGG:

Q. I thought you said the Waverley Oil Works that made a price
of 18 cents did not cut your price?—A. Yes, that is what I
9324 said. They did not cut our price. Their price was a little
higher, figuring the barrel in.
Q. There was no agreement to take the barrel back, was there?—
A. No; there was no agreement to take the barrel back.
Q. So that you do not consider that any cut?—A. No; there was
no cut there.
Q. Now, this Energine Refining Company sold at what place?—A.
The Elkins Pail & Lumber Company, Elkins, West Virginia.
Q. What grade of gasoline did they sell?—A. 63 deodorized
naphtha.
Q. Did you test it to see?—A. No, sir.
Q. How do you know what the test was?—A. I just got Mr. Cas-
low's word for it.
Q. That was 8 cents f. o. b. the cars at Findlay, Ohio?—A. Cleve-
land, Ohio.
Q. And the freight rate was 35 cents?—A. 35½ from Cleveland to
Elkins.
Q. Per hundred or per barrel?—A. Per hundred.
Q. And the freight rate from Cumberland is how much?—A. 25
cents per hundred.

Q. You said the Crown cut the price one cent at some place?—A. Mt. Savage, Maryland.

Q. How did they deliver it—in barrels?—A. In tank wagon.

Q. How did you deliver it there?—A. In tank wagon.

Q. What kind of oil did they sell?—A. Well, they sold an oil which they called Soline. They claimed it was 175 fire test.

Q. Was it?—A. I don't know.

Q. You don't know anything about that?—A. No, sir.

9325 Q. You don't know whether they sold the same grade you did or not?—A. Well, I know they sold a cheaper grade than we did.

Q. And sold it at a little less price?—A. No, sir.

Q. I thought you said they cut the price to 8 cents?—A. They did; they sold at 8 cents. We met it. Consequently, they did not sell any cheaper than we did. We met their price.

Q. But you said they were selling a cheaper grade than yours?—A. That it was a cheaper grade; yes, sir.

Q. It was worth less?—A. It was worth less.

Q. Then it was not a cut in price?—A. Yes, it was a cut in price. They made the price cut, at the same time claiming they were selling the same grade.

Q. Now, let us see about that. You were previously selling at 10 cents, were you?—A. No, sir.

Q. I thought you said previously the price had been 10 cents?—A. No; that was their price.

Q. They came in there and offered to sell at 10?—A. Yes, sir.

Q. You were selling at 9?—A. 9.

Q. But it did not go, so they sold a cheaper grade at 8?—A. So they inaugurated a cheaper price, and claimed to be selling the same oil that they offered for 10 cents, but put in a cheaper grade.

Mr. CAMPBELL. They combined misrepresentation with the cut.

WITNES. That is the idea; yes.

Q. Did you test their oil to see what it was?—A. We examined it.

Q. Did you test it?—A. No; we made no test of it.

9326 Q. Can you tell by looking at it what the grade is?—A. Almost.

Q. What?—A. It was yellow enough. The color told the quality.

Q. So you could tell by looking at it that the grade was lower than yours?—A. We could tell by looking at it, and what the merchants said, that it was not as good as what we were selling, or what they had been selling.

Q. Then what did they buy if for?—A. Of course, they were duped.

9327 TRABUE BARKSDALE, called on behalf of defendants, being duly sworn, testified as follows:

Direct examination by Mr. ROSENTHAL:

Q. What is your full name?—A. Trabue Barksdale.

Q. Where do you live?—A. I live in Sumpter, South Carolina.

Q. What is your business?—A. Traveling salesman for the Standard Oil Company.

Q. Do you travel out from Sumpter?—A. Have been traveling from the Columbia office.

Q. How far is Sumpter from Columbia?—A. Forty-two miles.

Q. Columbia is your main office, is it?—A. Has been, up to the first of this month.

Q. And since then?—A. Charlotte, North Carolina.

Q. How long have you been a traveling salesman, traveling from that point?—A. From April, two years ago.

Q. And where is your territory?—A. Eastern South Carolina.

Q. What part of South Carolina?—A. I cover about fourteen tank-wagon stations.

Q. What goods do you handle?—A. I handle refined oil, gasoline, and specialty goods, their general line.

Q. And before traveling there, what was your territory?—A. I traveled out of Wilmington, North Carolina.

Q. Where do you get your prices from?—A. From the special agent in Columbia, Mr. E. S. Player.

Q. And when you were traveling out of Wilmington, where did you get them from?—A. From W. R. Barksdale, special agent.

9328 Q. At Wilmington?—A. At Wilmington.

Q. Did they come to you by mail?—A. No; we had regular list prices, open, and contract prices.

Q. Well, that is as to lubricating products?—A. Lubricating, yes, and on refined oil, our regular prices from the office.

Q. Have you any authority in your territory to make any price changes?—A. None whatever.

Q. Have you ever done so during the years that you have been connected with the company?—A. Never, without——

Q. How many years all told have you been connected with the company?—A. I enlisted with the Standard in 1890 as a stock clerk at Wilmington, North Carolina. I was stock clerk for about one year, and resigned to go into a manufacturing business. I was then employed again by the Standard Oil Company in about 1895, in the stove business, marketing gasoline stoves; and about 1898 I was traveling auditor—that is, checking tank stations, gallonage.

Q. During your time as traveling salesman, what has been your competition in your territory?—A. I have had the Red "C," the National, Harwood Bros., Robinson, The Gulf Refining Company, the People's Oil Company, and the Petroleum Oil Company, and a number of Cleveland oil companies.

Q. Have you ever experienced any price cutting on the part of your competitors in connection with lubricating oil sales?—A. Yes, sir.

Q. Frequently?—A. Oh, quite often.

9329 Q. I call your attention to a case at Jefferson, South Carolina, in connection with the National Oil Company there?—A. Yes, sir.

Q. Do you remember that case?—A. Yes, sir.

Q. Another at Bethune, South Carolina. Do you remember that case?—A. Yes, sir.

Q. That was refined oil, was it not?—A. Yes, sir; refined oil in barrels.

Q. Tell me about that, please.—A. We were marketing refined oil at Bethune, at 16 cents, delivered, from Camden, South Carolina. The price at Camden was 14 cents in barrels; a freight rate of 50 cents on a barrel to Bethune, making the oil laid down at Bethune——

Q. 15 cents?—A. Yes, sir; 15 cents. They made a price of 14½ cents from Norfolk, with a freight rate of $2 a barrel from Norfolk, and secured the business.

Q. How much of a cut did that represent?—A. That represented a cut of a half cent.

Mr. KELLOGG. When was this?

WITNESS. This was in March, 1906, according to my recollection.

Mr. KELLOGG. I do not understand that. Your price was 15 cents, you say, net?

WITNESS. I said 14 cents, in barrels at Camden, with a 50-cent freight rate, made our oil cost at Bethune 15 cents. The competitor sold oil there at 14½ cents, the National, delivered from Norfolk, with a freight rate of $2 a barrel. That was delivered.

9330 Mr. KELLOGG. Oh, delivered.

Q. You mean they paid the freight?—A. Yes, sir; they paid the freight. The bill was 14½ cents, less $2 for the freight.

Q. That would be about 4 cents a gallon?—A. That is just 4 cents a gallon. They must have sold the oil at 10½ cents f. o. b. Norfolk.

Mr. KELLOGG. You said a cut of a half cent?

WITNESS. A cut of a half cent on our price; yes. Our price was 15 cents at Bethune.

Mr. KELLOGG. They sold at 14½?

WITNESS. 14½; yes.

Q. Do you know of any cut that the Red "C" made by J. D. Austin at Camden, South Carolina?—A. Yes, sir.

Q. Tell us about that, if you remember.—A. To the best of my recollection our price at Camden was 12½ cents from tank wagon. Austin called on the Camden Grocery Company and placed a car of oil at a half cent under our price, making it 12 cents.

Q. Did he get the business?—A. He got the business; yes, sir.

Mr. KELLOGG. When was this?

WITNESS. 60 barrels at Camden, South Carolina.

Mr. KELLOGG. When?

WITNESS. In January, 1906, to the best of my recollection.

Q. Do you remember the situation at Lake City, South Carolina, in February, 1906, in competition with the National Oil Company?—A. Yes, sir. We were selling oil, delivering it in barrels at

9331 15 cents. The National people sold a brand of oil they called White Star at 14½ cents. We lost the business.

Q. Do you remember the Marion, South Carolina, case?—A. I remember a case of gasoline—the National Oil.

Q. I am not talking about gasoline, but kerosene. I mean a case of the sale of a carload of Sunbeam by J. D. Austin.—A. Yes, sir; J. D. Austin sold——

Q. Do you remember that case?—A. I don't recall just the price, but I am sure it was half a cent under our price.

Q. What makes you sure of that?—A. From the fact that he placed the car and got the business. I don't remember just what the price was.

Q. Was he in the habit of selling for half a cent under your price?—A. A cut of a half cent at that time; that was usually his price. In one instance he made a cut of a quarter of a cent.

Q. My record here shows a cut of a cent and a quarter in the case of 1 car of Sunbeam oil at Marion in March, 1906, made by the Red "C" Oil Company, your price being 12½ and their price being 11¼. Do you remember that case?—A. I don't just recall that case.

Q. You don't remember that. All right. Are there any other cases that you do remember?—A. I remember a case of gasoline.

Q. Tell me about that.—A. At Marion. Our price on deodorized gasoline was 18¾ cents delivered from Wilmington. The price
9332 in Wilmington was 15½ cents, is my impression, with a freight rate of 33 cents a hundred, or 2.64 a barrel. That would make 18.14. I want to get at the exact price of our gasoline at Marion. It was 18.14, my impression is, and that figured out 15.50 and 2.64. They sold gasoline at 17 cents, delivered from Norfolk.

Q. How much of a cut did that represent?—A. Practically a cent and a quarter. The price was 18.14.

(An adjournment was here taken until Friday, September 18, 1908, at 10.30 a. m.)

9333 ROOM 715, CUSTOM-HOUSE, NEW YORK CITY,
Friday, September 18, 1908—10.30 a. m.

The hearing was resumed before the special examiner, Hon. Franklin Ferriss, at the above time and place.

Present: On behalf of the petitioner, Mr. Frank B. Kellogg, Mr. Charles B. Morrison; on behalf of the defendants, Mr. Moritz Rosenthal, Mr. F. L. Crawford, Mr. Douglas Campbell, Mr. W. Cleveland Runyon.

TRABUE BARKSDALE, recalled, and his direct examination resumed, as follows:

By Mr. ROSENTHAL:

Q. Mr. Barksdale, do you know of a case of a cut price made by the National Oil Company at Marion, South Carolina, about June, 1906?—A. In gasoline?

Q. Yes, sir.—A. Yes, sir.

Q. What was that, please?—A. The case of a barrel of gasoline sold to L. W. Carmichael at 17½ cents delivered. Our price at that time was 18 and 14/100 of a cent, delivered, from Wilmington.

Q. For the same kind of gasoline?—A. The same kind of gasoline, deodorized gasoline.

Q. And how much of a cut does that represent?—A. It represents practically three-fourths of a cent cut.

Q. In your experience there, did you come in contact with a great many cuts made by your competitors throughout that field?—

9334 A. A great many; yes, sir.

Q. Did the Standard Oil Company ever meet with any of those cuts—just generally?—A. No, none, with the exception of one occasion at Dillon.

Q. In that case you met the cut?—A. We met the cut price.

Q. Did you go below their cut price?—A. No; we met their price.

Q. Met their prices?—A. Met their prices.

Q. Did you ever, during the time that you have been general salesman for the Standard, know of its cutting prices below its competitors' prices?—A. No, sir.

Q. Has that ever been done in your field?—A. No, sir; not to my knowledge.

Q. Well, you would know of it if it were done, wouldn't you?—A. Yes, sir; in my field.

Q. How much of your time do you spend in the field, how much of the twelve months in the year?—A. Practically thirteen months, counting my night rides. I am on the road all the time.

Cross-examination by Mr. KELLOGG:

Q. All these cuts you are talking about have been during the last two years?—A. Yes, sir.

Q. Now, you told about a cut at Lake City, South Carolina?—A. Yes, sir.

Q. Your selling price was 15 cents, was it?—A. 15 cents, yes, sir.

9335 Q. For what kind of oil?—A. Refined oil.

Q. What grade of refined oil?—A. Water White.

Q. Who was it you said sold a carload at 14½?—A. Not at Lake City.

Q. What?—A. Not at Lake City. I think there was never a carload sold there to my knowledge. It was barrel oil.

Q. Well, barrel oil?—A. The National Oil Company.

Q. What grade was theirs?—A. Water White—they represented it as Water White. White Star was the brand.

Q. Do you know what grade it was? Did you test it?—A. No; I did not test it.

Q. Where was it made?

Mr. ROSENTHAL. The question was if you knew the kind of grade.

WITNESS. Water White grade represented as Water White grade.

Q. There are a good many different grades?—A. Yes, sir.

Q. That is, of Water White oil, are there not?—A. Well, I don't think so.

Q. Some Water White oil is better than others; tests higher?—A. There is quite a difference between Water White and Prime White. You can distinguish it with the eye.

Q. They make Water White oil in Texas, don't they?—A. I don't know.

Q. You don't know anything about that?—A. No.

Q. Do you pretend to say that there is no difference in the grade of Water White oil made in different parts of this country?—

9336 A. None to my knowledge. I thought Water White oil was Water White oil.

Q. I suppose Water White oil made from the Pennsylvania oil, and Water White oil made from Texas oil, and Water White oil made from Lima, Ohio—are they all of the same grade?—A. I supposed it was all the same grade.

Q. Do you know whether it is or not?—A. I don't know.

Q. How did you know they sold that at 14½ cents?—A. Well, they got the business.

Q. Simply that they got the business?—A. Yes.

Q. You don't know that they made that price. You assumed that, did you?—A. No; I was told so.

Q. Who told you?—A. Epps & Epps told me.

Q. Are they the men who bought?—A. They are the men who bought; yes.

Q. They are the ones that bought the oil?—A. They are the ones that bought the oil; yes, sir.

Q. They said they got it at 14½?—A. They said they got it at 14½.

Q. Delivered at the store?—A. Delivered at the depot.

Q. That is all you know of it?—A. That is all I know about it; yes, sir.

Q. Now, at Marion, South Carolina, was Mr. Austin the agent of the National Oil Company?—A. No, sir; of the Red "C."

Q. He sold a carload?—A. Yes, sir.

Q. Of Sunbeam?—A. Of Sunbeam; yes, sir.

9337 Q. How do you know what price he got for it?—A. I don't recall the price.

Q. Then you don't know that he did make the cut?—A. Yes; I know that he did make the cut.

Q. How do you know it?—A. Because they controlled the business, the carload.

Q. They got the business?—A. Because they got the business; yes, sir.

Q. That is the only reason you have for believing it?—A. Yes, sir; and then I was told so.

Q. Who told you so?—A. Carmichael.

Q. Is that the man you have just testified to?—A. He is the man that I just testified to, that bought——

Q. That is the instance you gave yesterday, is it?—A. Yes, sir.

Q. That is the same one?—A. That is the same one; yes, sir.

Q. At Marion, South Carolina?—A. Yes, sir.

Q. What price did he tell you they sold it for?—A. I don't remember.

Q. You don't know?—A. No.

Q. You don't know how much the cut was?—A. No; I don't know.

9338 C. T. COLLINGS, recalled for further cross-examination, testified as follows:

By Mr. KELLOGG:

Q. Mr. Collings, have you the letters called for in the subpœna in this case served on you?—A. I have not.

Mr. KELLOGG. I offer in evidence the original subpœna, with the return of the marshal thereon.

(The paper so referred to is marked "Petitioner's Exhibit 918.")

Mr. ROSENTHAL. Let the record show that he was served with the subpœna to produce them.

Q. Have you searched for the letters, Mr. Collings?—A. I made diligent search for the letters myself, personally.

Q. Yourself, personally?—A. Yes, sir.

Q. Did you also make inquiries in the other branches?—A. I did. I took the young man who has charge of the filing and had him go with me and open the vaults and boxes and presses where all the old files were—in the vaults—and look them over, and I could not find a thing. I even went to the warehouse where they said there were some boxes of old papers, and had them opened and looked through those.

Q. Did you inquire of Mr. Stanley for the letters purporting to have been written to him?—A. No; Mr. Stanley is not in our employ and I did not see him after I received that. I don't know where he is now.

Q. Isn't he still in the employ of the company?—A. No, sir; has not been for four or five years.

9339 Q. Did you inquire in his Department?—A. I did; yes, sir.

Q. Have you your letter files preserved back of 1900?—A. No, sir.

Q. Including any of 1900?—A. Well, nineteen hundred and what, for instance?

Q. During the year 1900?—A. No.

Q. 1898?—A. No.

Q. 1899?—A. No.

Q. 1897?—A. No.

Q. You have no letter files?—A. None whatever.

Q. What has become of them?—A. They were no doubt destroyed at the time we moved from Cincinnati to Covington.

Q. When was that, did you say?—A. That was about April or May, 1906.

Q. You say, "no doubt destroyed." Did you inquire to find out whether they were destroyed?—A. Those particular papers, of course no one could tell when they were——

Q. Well, all of your letter files were destroyed?—A. Were destroyed in 1906, yes, sir; back to a certain date.

Q. What?—A. They were destroyed back to a certain date. We did not destroy them all right up to that date.

Q. Well, up to what date?—A. Up to January 1, 1905, as near as I could figure it out.

Q. So everything prior to January 1, 1905, has been destroyed?—A. Practically I should say; yes.

Q. Well, has everything, or have all letters been destroyed prior to that?—A. There might be a few scattering letters in

9340 1904 that got stuck in with 1905, in the 1905 file, and did not get out, but the intention was to destroy everything back of January 1, 1905.

Q. Why do you keep your letter files?—A. Really we have discovered in investigating this matter that it is really not necessary to keep letters longer than two years, one and a half to two years. I have asked a number of our people. I said, "Have you ever had occasion to go back in these old files to find any correspondence?" I could not find a man that had been back to find a letter as far back as 1900, not in the last two years.

Mr. ROSENTHAL. You mean in connection with business transactions?

WITNESS. In the general business, yes. I asked several of them. I said, "Have you ever looked for any files; have you ever had any occasion in your general business to look up these old files?" And everyone of them told me they had never had occasion to, that they never referred to the old files.

Q. Now, about January 1, 1906, you destroyed the letters up to January 1, 1905?—A. No; it was along in April or May.

Q. In April or May?—A. At the time we moved across the river.

Q. Well, April, 1906—I beg your pardon.—A. We were compelled to give up the office. We sold it, and we had no place——

Mr. ROSENTHAL. You mean in Cincinnati?

WITNESS. I mean in Cincinnati, and we had no place in Covington to store them—not a place.

Q. The letter files of four or five years were not very bulky,

9341 were they?—A. That is a point that I especially inquired about. There were, I think, twelve fireproof vaults full and a large storeroom on the fifth floor in the old Cincinnati office full of old stuff.

Q. Just full of old letters?—A. No, sir; letters, books, and papers of every description.

Q. But the letter files——A. At that time we had fifteen or twenty main stations and about six hundred substations, and I suppose we would receive in the Cincinnati office, in the shape of letters from all sources, in round figures, five or six hundred letters a day.

Q. Mr. W. C. Elliott was in the habit of receiving mail on certain subjects from your agents, was he not, and writing letters?—A. Mr.

Elliott did write letters, there is no question, and no doubt I suppose he received answers.

Q. On the business of the company?—A. Yes.

Q. And do you know that he had correspondence with Mr. Maxon?—A. I don't know. I could not say about that. Mr. Elliott was a person that was quite hard to control in some respects. He had been led to believe that he was a very important personage on account of his close relation to the former president of the company and owner at one time of the business, Mr. McDonald, and he was pretty badly spoiled in that regard and he did a good many things that, ordinarily, a man in his position would not have thought of doing.

Q. Was Mr. Stanley also badly spoiled?—A. No; I can't say that he was. No; I think Mr. Stanley——

Q. Did he do a good many things that he ought not to do?—
9342 A. Well, I don't know about that, Mr. Kellogg. I think not. He was always a very levelheaded, good business man.

Q. Isn't it a fact that Mr. Elliott had charge of this subject of payment for secret information?—A. If he had, I did not know it, Mr. Kellogg. I did not know. If he was doing anything of that kind, it was without my knowledge or consent.

Q. You have been unable to find any of these letters?—A. I looked for them faithfully. I am sure they are not in existence.

Q. And you are again willing to testify, are you, that no money was ever paid, while you were general manager, for information as to competitive shipments, to anybody?

Mr. ROSENTHAL. He never has testified to that.

A. Not to my knowledge, sir. I don't know of the—I can't recall.

Q. You have no knowledge of any such thing?—A. I can not recall any such instance; if it was done, it was not called to my attention and I did not know it.

Q. Did you look for the books, records, and papers of the Standard Oil Company of Kentucky, showing the gross earnings and expenses, the net earnings, the volume of business done, and the prices charged for oil sold of each of the following companies from 1897 to 1906, inclusive, the list of companies being in the record which I gave you?—A. I did not, sir.

Q. You made no examination?—A. No.

Q. Why didn't you do it?—A. I left in great haste here to catch my train, was one thing, and I failed to find out what it
9343 was in the list that you wanted.

Q. The list was put into the record while you were on the stand?—A. Yes.

Q. And you were asked about it?—A. Yes. I failed to take a copy of that record.

Q. Why didn't you send for it?—A. I was so busy looking for these letters and catching up with my old business, that has been running behind since I have been away, that I really hadn't time to.

Q. You remembered in a general way what I asked for, didn't you.—A. In a general way I did; yes, sir.

Q. Did you make any examination?—A. I did not make any examination.

Q. Did you ask your bookkeeper to make any statement about that?—A. I did not, sir.

Q. Have you the books showing it?—A. I don't know. I never had charge of the books. I do not go into the treasurer's office once in——

Q. The treasurer is under you, isn't he?—A. No, I could not say exactly that. He is an officer of the company that reports to the board of directors and the president. He does not hold himself responsible to me. I am strictly a marketing man.

Q. Well, you have general charge of everything, haven't you?—A. I don't think that would be a fair statement.

Q. Does not the treasurer report to you?—A. Only when I ask for certain information.

Q. Certainly; but in your organization he is under you, isn't he?—
A. I suppose you could class him that way, but more
9344 strictly he is under the president and board of directors, because he does deal with those people over my head.

Q. Didn't you testify in this case that Mr. Holmes would not make any payments for secret information without your knowledge?—A. I think he would not, because that was a thing he would not be authorized to do, either by the board of directors, the president, or myself.

Q. You had the management of the——A. That would be a separate matter, though.

Q. Of the business of the company, covering the business of all these companies, which I mentioned, or at least some of them, had you not?—A. You mean, did I have something to do with the management of some of those concerns?

Q. Yes.—A. If it happened after 1900—if any of them were in existence after 1900, yes, I would have.

Q. Now will you furnish the information in that statement, or will you not?—A. What is that now?

Q. The books, records, and papers of the Standard Oil Company of Kentucky, showing the gross earnings, the expenses, the net earnings, the volume of business, and the prices charged for oil sold, of each of the following companies, from 1897 to 1906, inclusive, commencing with the——

Mr. ROSENTHAL. He will be glad to furnish it if he has it.

Q. When will you find out if you have got it?—A. I will go back to Cincinnati, or to Covington, rather, and see if I can find those for you.

Q. When did you go back to Cincinnati after you left here
9345 before?—A. I went back on Monday or Tuesday. I went down to see my family, down on Long Island where they are staying for the summer.

Q. And you were there how many days?—A. I was there Wednesday and Thursday. I left there yesterday. To-day is Friday.

Q. When will you look this up and let us know?—A. It is going to be a very hard job to find these old books; that is, if they are in existence.

Q. Well, are they in existence?—A. I don't know. I never saw any of them in my life, and I will go back and report just as soon as I can accomplish anything one way or the other.

Q. Did you furnish the information requested of you as to the prices of Water White oil from tank wagons, showing the changes from 1895 to 1907, inclusive, in Atlanta, Augusta, Savannah, and the other towns mentioned?—A. Some of those towns were not under my jurisdiction at that time—Savannah, for instance.

Q. Have you got the list with you that you did furnish?—A. I will show you what I—I did not get that very clearly there, that question. I have got, for instance, Atlanta.

Q. Let me see that.—A. (Handing Mr. Kellogg a paper.) I find my records do not agree with yours, at least with those tank-wagon tickets that you exhibited.

Q. You furnish a statement here which I will have marked an exhibit [marked "Petitioner's Exhibit 919"]. This is only for the years 1897 and 1898.—A. And that does not agree, I notice, with those tank-wagon tickets you had. I can't explain that. If you look
9346 up that ticket that you had there, sometime in 1898, it showed a price of 11 cents. I can't understand where that could have come from.

Q. Your statement only comes down to October 6th?—A. That is up to the end of the year. Those are the prices according to our records. There was no change from that until the first of January. Now, if that change was made, if that price was changed, it must have been a local change, and the Atlanta man did not report it.

Q. Local to Atlanta?—A. Yes, sir.

Q. Now, why didn't you furnish the prices for the other years called for?—A. I could not—I did not have time. I only got those this morning.

Q. That is all you got?—A. This morning, out of Mr. Westcott's office.

Q. Just as to Atlanta?—A. Yes, sir.

Q. Will you get the rest?—A. Yes, sir; if I can find them. I only had a few minutes to get that information up.

Q. I show you the tickets of October 14, October 21, November 17, November 29, December 6, and December 20, 1898 [handing tickets to witness].—A. What was the last date on that record of ours?

Q. October 6. I would like to know if those are genuine tickets and if that was the price at Atlanta at that time.—A. They have all the earmarks of being genuine tickets. Of course a driver might collect more money for oil than he would report.

Q. He would not be apt to do it for several months right
9347 along, would he?—A. No; we have a system of checking these men up every once in a while. I can't explain it. That is the record, just as we have it.

Q. That is all the record you have here in the general office in New York?—A. Yes, sir; that is the record in Mr. Westcott's office. I don't understand how these changes could have taken place. I can't see that—the local agent certainly would not have made that advance; it does not seem so at least, without advising us.

Mr. ROSENTHAL. Do those tickets show an advance over your office record?

WITNESS. Yes, sir.

Mr. ROSENTHAL. Or a reduction?

WITNESS. An advance.

Mr. ROSENTHAL. An advance over your office record?

WITNESS. Yes. There are only two ways you can explain it.

Mr. ROSENTHAL. The office record shows a list of prices lower than those tickets show?

WITNESS. Yes; the only way that I can explain that is that either the local agent made the advance and his office failed to advise my office, or they did advise it, and through some mistake in my office they failed to make a record of it, because that is the record as I gave it to you.

Q. Now, will you get, from the general office here in New York, the information I asked you for, as to all these towns, and find out from your office in Cincinnati whether you will furnish
9348 this other information as to the books, showing the gross earnings, etc., of these subcompanies?—A. Yes.

Mr. ROSENTHAL. Your first request, Mr. Kellogg, involves a great deal of labor, and if we are to be charged up with minutes during the presentation of our case, we do not propose to be charged up, as a part of our case, with new matter which you put in on the cross-examination.

Mr. KELLOGG. Mr. Collings testified as to prices. I have cross-examined him as to those prices.

Mr. ROSENTHAL. He testified to nothing on the direct examination that makes this a relevant cross-examination, or that makes your call here a relevant cross-examination. It is a part of your redirect case, and not a part of the cross-examination, and not a part of our case.

Mr. KELLOGG. Are you referring to the prices?

Mr. ROSENTHAL. Yes; and indeed I am referring to all of these requests, excepting your request for the Maxon letters. It is all properly a part of your redirect case; and if you are to keep tab on us to the minute while we are putting in our defense, we propose to hold you down to making your case on the redirect, instead of making your case while we are making our defense. That is the only point. It is not a question of our refusing to produce, because that we do not do. We will give you everything on earth that we have got. It is merely a question as to the time when we shall do it. If we are going to be limited as to time in the making of our defense, why then we want you to put in your case on the redirect, and not during
9349 the time that we are making our defense. That is my only point on that.

Mr. KELLOGG. Now, Mr. Rosenthal, Mr. Collings testified as to the prices during these times in Atlanta, Augusta, Birmingham, Spartanburg, and other places.

Mr. ROSENTHAL. And now you have made a call——

Mr. KELLOGG. Wait a moment. Please let me make my statement.

Mr. ROSENTHAL. Not during the years called for, Mr. Kellogg.

Mr. KELLOGG. During quite a number of those years.

Mr. ROSENTHAL. I beg your pardon.

Mr. KELLOGG. As to the various changes, and I have cross-examined him to show that there were many other changes more radical than he testified, and that they were confined to certain cities and did not go over the whole territory, and to substantiate that I asked for a list of prices showing it. I think it is properly a part of the cross-examination.

Mr. ROSENTHAL. It is not a part of the cross-examination. It is a part of your redirect case.

Mr. KELLOGG. Now, just wait a minute, please. If they would contradict him from his record they would certainly be proper cross-examination. Now, as to the books showing the earnings of these companies, he testified that these companies had all made money, or some of them, at least.

Mr. ROSENTHAL. Mr. Kellogg, you know that if Mr. Collings furnishes you with these prices from the records that are in Mr.
9350 Westcott's office he is doing something that he is not under the slightest obligation as a witness to do. You can get it as a part of your case by subpœnaing the proper witnesses, or by making the proper call upon us, but Mr. Collings, as a witness under cross-examination, is not under the slightest obligation to produce or to make a search of those records. Now, we are perfectly willing to give them to you, whatever we have and anything that we have, but we do not wish to be charged up with the time that you occupy in putting in that which is properly, in our judgment, a part of your redirect case, if days, or hours, or even minutes, to the extent of ten minutes, are to be counted up against us.

Q. Do you know the signature of this driver?—A. No, indeed.

Q. Do you know the man?—A. I do not.

Q. Do you know J. S. Cox?—A. No.

Q. I thought you were going to look up and find out about these tank-wagon tickets; have you done so?—A. I have not had time.

Q. Will you do it?—A. Yes, sir.

Q. All right. That is all at present.

Redirect examination by Mr. ROSENTHAL:

Q. Just one question. You were cross-examined by Mr. Kellogg when you were here concerning an episode the witness Kercher testified to in relation to the purchase of the Widow Jones's business in Alabama. You remember that, do you not?—A. I do.

Q. I show you a letter and ask you to look at it, a letter under date of April 4, 1908, signed by Sudie P. Wilson. Where did you get

9351 that letter from?—A. Captain P. S. Morris, our special agent at New Orleans, sent it to me a few days ago.

Q. A few days ago?—A. Yes, sir.

Q. Have you Captain Morris's note?—A. Yes, sir. I don't know whether I brought that with me or not. I telegraphed him to send it to me. He mentioned it to me. I saw him not long ago, and he said, "I have a letter from Mrs. Wilson," and after this testimony it occurred to me that it might be of interest.

Q. Who is Sudie P. Wilson? Is she the Widow Jones?—A. She is the Widow Jones.

Q. The woman who signs the letter?—A. Yes.

Mr. KELLOGG. Do you know that of your own knowledge?

Mr. ROSENTHAL. No, but he knows that Sudie P. Wilson is the Widow Jones.

WITNESS. Yes. She has been married twice.

Mr. ROSENTHAL. He does not know her signature, but I will undertake later on to prove the handwriting.

WITNESS. She was married twice. Her last husband's name was Wilson. She was married three times in fact.

Mr. ROSENTHAL. I offer this letter in evidence.

Mr. KELLOGG. It is objected to as incompetent.

Mr. ROSENTHAL. And in connection with my offer, if there is any objection upon the ground that it is not Mrs. Wilson's letter, I shall promise to prove later that that letter was written by her, if that is the ground of the objection.

Mr. KELLOGG. Is she buying oil from your company now?

WITNESS. She is not in business.

9352 Mr. ROSENTHAL. Do you object to this letter on the ground that it is not her letter?

Mr. KELLOGG. Yes.

Mr. ROSENTHAL. As well as upon the ground that it is otherwise immaterial?

Mr. KELLOGG. Yes.

Mr. ROSENTHAL. All right. I think I will offer it then as an exhibit.

Mr. KELLOGG. Put it in as an exhibit, and I will let you know later whether we object to it or not.

The paper above referred to is marked Defendants' Exhibit 92-1/2.

WITNESS. I wish to correct a statement that I made about my movements. I had not in mind the trip I made the week before. I left here on Friday, just after I finished my testimony, and I went direct to Cincinnati. I got there at one o'clock Saturday. I think I said Tuesday, but it was the week before I went.

Mr. KELLOGG. And you were in Cincinnati?

WITNESS. Monday, Tuesday, Wednesday, and a part of yesterday. I left there yesterday.

Mr. KELLOGG. All right.

WITNESS. I was thinking of the week previous, when I went down to East Hampton from here on that 3.30.

9353 ROBERT R. JONES, called on behalf of the defendants, being duly sworn, testified as follows:

Direct examination by Mr. ROSENTHAL:

Q. What is your full name?—A. Robert R. Jones.

Q. Your place of residence and your business?—A. Kernersville, North Carolina; occupation, traveling salesman for the Standard Oil Company.

Q. What is your territory?—A. North Carolina, the western and central portion of the State.

Q. How long have you been a general salesman?—A. Since October, 1902—five years.

Q. And always in that territory?—A. Since I have been a traveling salesman.

Q. Since October, 1902?—A. Yes, sir.

Q. To what main offices do you report?—A. I reported to Richmond, Virginia, until April, 1906, and then to Wilmington, North Carolina.

Q. And you got your prices from those offices?—A. Yes, sir.

Q. State generally whether you had any authority to deviate from the prices that you got from your main office?—A. I did not.

Q. During the years that you have been employed as general salesman, have you ever done so?—A. I have not.

Q. Who were your principal competitors in refined oil and gasoline in your territory during the time that you have been employed?—A. The Red "C" Oil Company, of Baltimore, the North Carolina Oil Company, at High Point, North Carolina, and Sherwood
9354 Brothers, of Baltimore.

Q. And a number of others, I suppose—the Harvey Oil Company, of Cleveland?—A. Not in the refined oil business. The Harvey Oil Company in lubricating oil.

Q. I was limiting myself to refined oil. Now, taking up refined oil and gasoline in your territory during the six years that you have been covering it, did you find any price cutting on the part of any of your competitors throughout that field?—A. I did.

Q. Frequently?—A. Most every instance that they placed oil was at a cut price.

Q. Who was in that field first, the Standard or these other companies?—A. When I went in with the Standard the other companies were there.

Q. So you do not know who occupied the field first?—A. I do not.

Q. The Standard Oil Company, through your field, delivers mainly through tank wagons, does it not?—A. They do.

Q. And how do these other people sell their oil mostly?—A. In barrels.

Q. Barrel delivery?—A. Yes, sir.

Q. Can you give us any instances of price cutting on the part of the Red "C" Oil Company?—A. Yes, sir.

Q. Let us have them.—A. In Randleman, North Carolina, in 1906, the Red "C" sold a carload of their Sunbeam brand at 12½ cents,

delivered, allowing a dollar f. o. b. Randleman for empty pack-
9355 ages; making a net price of 10½ cents bulk. Our tank-wagon price at that time was 11 cents. They also allowed sixty days' time, and agreed to stand the leakage for sixty days.

Q. Did the allowance of sixty days' time involve a cash discount, a discount if paid in cash?—A. If paid in ten days a discount of one per cent.

Q. Any other cases?—A. Yes; there was a case at Madison. Our price was 14 cents a gallon, and the Red "C" sold at 13¾. They allowed 95 cents for the empty package f. o. b. Madison. Our price at that time was 75 cents for empty barrels.

Q. Any other cases of the Red "C" price cutting?—A. In Thomasville, North Carolina, they sold a carload of naphtha at 14 cents delivered and paid the drayage from the station to the manufacturing plants. Our price was 14½ delivered from tank wagon.

Q. What was their oil which they sold in competition against your Aladdin?—A. Columbia Headlight.

Q. Was that represented by them to be as good as the Aladdin?—A. Yes, sir; guaranteed as good as the Aladdin.

Q. Do you remember the price of Aladdin oil at Madison in December, 1906, in connection with a sale made by the Red "C" Oil Company of Columbia Headlight to McGhee & Company?—A. Yes, sir; I remember that sale; I don't remember the exact price. There was a net cut of a cent a gallon, I remember.

Q. A net cut made by the Red "C" to McGhee & Company of a cent a gallon?—A. Yes, sir.

Q. Did they get the business?—A. Yes, sir.

Q. Who had it before?—A. The Standard. McGhee &
9356 Company were not the sole purchasers of this oil. It was distributed among other merchants by McGhee.

Q. Do you remember of any other cuts made by the Red "C"?—A. Yes, sir; Atkinson & Company, of Elkins, North Carolina. The Red "C" sold a carload of oil at 13 and 14 cents delivered.

Mr. KELLOGG. What?

WITNESS. 13 and 14, the Sunbeam grade and the Columbia Headlight. Our price previous to that was 13¾ and 14¾ delivered on the same basis.

Q. Making a cut of ¾ of a cent in that instance?—A. Yes, sir.

Q. Did they get the business?—A. They did.

Q. Do you remember any other cuts made by the Red "C" in your territory?—A. The F. D. Forrester Company, Northwilkesboro, North Carolina. The Red "C" sold a carload of oil at 13 cents per gallon delivered. Our price was 14 cents. They guaranteed the oil as good as our Aladdin brand, which we were selling at that time.

Q. Did they get the business?—A. They did.

Q. Any other cuts?—A. They further sold another car to these same parties at the same price, net, 30 to 60 days.

Q. Any other cuts that you remember, Mr. Jones?—A. The North Carolina Oil Company sold a car to the same parties—the F. D. Forrester Company, of Northwilkesboro.

Q. At a cut of how much?—A. At a cut of a cent a gallon. They sold at 13. Our price was 14 at that time. They also allowed one 50-gallon barrel of oil to take care of leakage while in storage.

9357 Q. Have you in mind any other cuts besides those mentioned?—A. I have not at present.

Q. Have you told us of all the cuts that you remember made by the Richmond Oil Company?—A. I have not. The Richmond Oil Company sold to W. P. Ware, Reidsville, North Carolina, about fifteen barrels of oil that was taken out at different times at 12½ cents delivered. They guaranteed this oil as good as the grade that we were marketing in Reidsville at that time at 13 cents per gallon in barrels.

Q. Making a net cut of how much?—A. Half a cent.

Q. Did they get the business?—A. They did, and they have it yet.

Q. Has the Richmond Oil Company been a persistent price cutter?

Mr. KELLOGG. That is objected to. Let him give the instance.

A. This is the only instance in my field.

Q. Of the Richmond?—A. Of the Richmond Oil Company.

Q. Now, which company among your competitors is the most persistent price cutter, if any?—A. The Red "C" Oil Company, of Baltimore.

Q. Have you in mind any other cases of price cutting in connection with the sale of refined oil by any of these companies?—A. I have a case in mind at Mount Airy, North Carolina. Mr. B. H. Marsh sold a carload of oil to these people. I understood from the purchasers that he gave them one-half cent of his commission. He was getting a commission of three-fourths of a cent. He sold

9358 this naphtha in drums at 15½ cents delivered. Our price was 14 cents f. o. b. Greensboro, with a freight rate of 21 cents a hundred. It was a net cut of a quarter of a cent by the Red "C" Oil Company, and a half cent of the commission of Mr. Marsh was three-fourths of a cent reduction.

Q. Did you ever come in contact with the overgauging of barrels on the part of the Red "C" Oil Company?—A. I have.

Q. When? Tell us about that.—A. About the year 1903 or 1904, as near as I can remember, they were selling oil at Spray, North Carolina, and I took occasion to gauge something like fifty of the barrels and found them overgauged from 1 to 3 gallons.

Q. Did you gauge them yourself?—A. Yes, sir.

Q. Accurately?—A. Yes, sir.

Q. With what?—A. With a United States gauge rod.

Cross-examination by Mr. KELLOGG:

Q. Where was this gauging done?—A. In Spray.

Q. How did you happen to be gauging barrels?—A. To find out whether they were holding out or not.

Q. They were your competitors' barrels?—A. Yes, sir.

Q. You went to the store and asked to gauge them, did you?—A. I did.

Q. Where did you get your gauging rod?—A. It was furnished me by the Standard Oil Company, a United States gauge rod.

9359 Q. Furnished you by the Standard Oil Company. What do you mean by the United States gauge rod?—A. I believe it was marked on "United States gauge rod."

Q. Made by the Standard Oil, isn't it?—A. I don't know whether it is made by the Standard Oil Company.

Q. What has the United States got to do with it?—A. I don't know anything about that, what they have to do with it; it is a standard gauge.

Mr. ROSENTHAL. They have to do with almost everything just now.

Q. How do you gauge the barrels?—A. By putting a gauge rod in the bung hole, first one end and then the other.

Q. Now, you have got to put the gauge rod exactly in the center of the barrel opposite the bunghole in order to gauge it correctly, haven't you?—A. Stick it in the lower corner of the barrel.

Q. Yes, not strictly a corner, but it is directly opposite?—A. It is what you call the chyme of the barrel on the inside.

Q. But directly opposite the bunghole, haven't you?—A. Yes, sir.

Q. If you don't do it, it won't gauge correctly, will it?—A. That is the way I gauge them.

Q. Well, if you don't do it, it won't gauge correctly, will it?—A. I shouldn't think so.

Q. Did you inform your competitors that you were going to gauge their barrels?—A. I got their consent, sir, before I did it.

Q. Got whose consent?—A. Oh, the competitor, you mean?

Q. Yes.—A. No, sir.

9360 Q. You didn't get his consent?—A. No, sir; he was not on the spot at the time.

Q. You never informed him that you had done it?—A. I don't know that I have.

Q. What year was this?—A. 1903 or 1904, as near as I can remember, this was done.

Q. Whose barrels were they—the Red "C?"—A. The Red "C," Baltimore.

Q. Who was the merchant that bought them—A. There were a number of merchants.

Q. A number of merchants in this town?—A. Yes, sir.

Q. You told them they were being defrauded?—A. I didn't tell them anything until I gauged the barrels, and then I showed them that the barrels were overgauged. They went out to look at them themselves. I made no statement to them until I found out I was correct.

Q. What did you do it for—in order to get the business?—A. Certainly.

Q. Did you get it?—A. I did not, all of it; I got some of it.

Q. Did they call on the Red "C" to explain?—A. They said they were.

Q. Didn't they gauge them afterwards and find them to be correct?—A. The Red "C?"

Q. Not only the Red "C," but the merchant.—A. They did not.

Q. Do you swear they did not gauge any of those barrels afterwards and find that you were mistaken?—A. They didn't tell me of it if they did.

9361 Q. But they didn't all quit the Red "C?"—A. Not right at that time.

Q. Did any of them?—A. Yes, sir; some of them did.

Q. Right then and there?—A. Yes, sir.

Q. Gave you an order?—A. No; I didn't get the order on that trip. We lost the business for a while on that cut price.

Q. How many of these merchants whose barrels you gauged did you get?—A. I do not know.

Q. Did you ever hear of the incident afterwards?—A. How many of these barrels did we purchase—empty barrels you mean?

Q. No; how many of the merchants did you sell?—A. Some time afterwards we got the business there.

Q. How long afterwards?—A. I can't recall. We put in a substation there and got the business.

Q. Oh, you put in a substation afterwards?—A. Afterwards; yes.

Q. But you didn't get the business until you put in the substation, did you?—A. We got some of it.

Q. How much?—A. I don't know.

Q. You put in a substation and went to selling by tank wagon?—A. No, sir; we put in a barrel station.

Q. Oh, a barrel station. How came you to put in a barrel station there?—A. Because we wanted to ship in carload lots to give the merchants a better price.

Q. And you did do it, did you?—A. We did. Shipping in car lots it figured a better price than it did in local shipments.

Q. You shipped in car lots and gave them a better price, and then they bought some of you?—A. Gave them the benefit of

9362 the car price.

Q. You take this case of B. H. Marsh; Mount Airy, North Carolina, is that?—A. Yes, sir.

Q. When was that?—A. That was 1907; January, I think.

Q. Who sold the carload?—A. Who sold it?

Q. Yes.—A. B. H. Marsh, for the Red "C" Oil Company.

Q. Who is B. H. Marsh?—A. He travels in North Carolina.

Q. Is B. H. Marsh a wholesaler?—A. No, sir; he is traveling salesman in North Carolina.

Q. For whom?—A. He is now traveling for Sanders Bros., Richmond, I believe.

Q. Whom was he traveling for at that time?—A. I don't know.

Q. He was not traveling for the Red "C," was he?—A. No, sir.

Q. He was traveling for some wholesale house——A. Yes, sir.

Q. Who were selling Red "C" oil?—A. He was traveling for some oil concern selling oils, and he was working this, I suppose, as a side line.

Q. Now, you say he gave up half of his commission?—A. That is what I was informed by the people who bought.

Q. What price did he sell the oil at?—A. Sold it at 15½ cents delivered in drums.

Q. At Mount Airy?—A. Yes, sir.

Q. Did he allow anything for the drums when sent back?—I mean freight?—A. Freight return.

Q. You were selling at what price?—A. 14 cents f. o. b. Greensboro.

Q. What was the freight?—A. 21 cents a hundred.

Q. That is how much a gallon?—A. Oh, we figure a cent
9363 and three-quarters; it is not exact.

Q. You figure it a cent and three-quarters?—A. Yes, sir.

Q. That would make, according to your figures, the other price a quarter of a cent under yours?—A. Yes, sir.

Q. That would make the price a quarter of a cent cut under your price?—A. Made it ¾ of a cent, with the half cent that the salesman gave them.

Q. All you know about that is what the merchant told you? The merchant told you this, did he?—A. The manufacturer did—or the furniture manufacturers; there are three of them.

Q. The furniture manufacturers told you, then?—A. They did.

Q. When was this sale at Randleman, North Carolina?—A. 1906.

Q. When was the one at Madison?—A. Madison was 1906.

Q. Your price was 14 cents from tank wagon?—A. In barrels.

Q. In barrels, delivered?—A. Yes, sir.

Q. Delivered at the store?—A. No; we had a distributing point there, with a barrel station.

Q. You had a distributing point?—A. Yes.

Q. Did you deliver it at the store?—A. We did not.

Q. He came to your station and got it?—A. Yes, sir.

Q. How far from the store was your station?—A. There are various stores in the town. Probably three or four hundred yards, some of them, and some about a mile.

Q. Your competitor sold at 13¾, did it?—A. They did.

Q. And you say they allowed 95 cents for the barrel?—A. They did.

Q. Well, they got paid for it in the first place and allowed
9364 it when they got it back, didn't they?—A. They did. But our price was 75 cents a barrel and theirs was 95—a difference of 20 cents, about half a cent a gallon.

Q. What was the difference? They paid for it in the first instance. The merchant paid 95 cents, didn't he?—A. He paid 13¾ cents for the barrel and the oil.

Q. Oh, for the barrel and the oil?—A. Yes, sir.

Q. That was it? All of these cuts that you mention here were in 1906, were they, or in 1907?—A. Some were in 1906, some in 1907, and some in 1908.

Q. You don't know anything about the grade of oil they sold, do you?—A. I have never tested any of the oil—not supposed to. The

competitor got the business. The merchants said they bought it at a lower price than our market, and they got it on that basis.

Q. Were you traveling in North Carolina January 23, 1903?—A. I was.

Q. Did you go to Lincolnton during that time?—A. I did not.

Q. Who did?—A. I don't know.

Q. Was that in your territory?—A. It is not.

Q. In whose territory was it at that time?—A. I don't know.

Q. How far is it from your territory?—A. I don't know the distance; never been there.

9365 J. E. FARRAR, called on behalf of the defendants, being duly sworn, testified as follows:

Direct examination by Mr. ROSENTHAL:

Q. State your name, residence, and occupation.—A. Traveling salesman for the Standard Oil Company; Wilmington, North Carolina—or was at the time I gave you my evidence.

Q. How long have you been employed by the Standard Oil Company?—A. About 12 years.

Q. In what capacity—traveling salesman?—A. Traveling salesman; yes, sir.

Q. And during that time in what territory?—A. In the Wilmington territory.

Q. That is, Wilmington, North Carolina?—A. That is Wilmington, North Carolina.

Q. You travel in North Carolina?—A. Yes, sir. The fact is I traveled in North Carolina—a portion of it—and just a small portion of South Carolina.

Q. What have been your main offices which you would report to?—A. Wilmington.

Q. Do you get your prices from Wilmington?—A. Yes, sir.

Q. In the same way that these other men have testified?—A. Yes, sir.

Q. State whether or not you have any authority to, or whether you ever have deviated from those prices.—A. I have no authority to deviate.

Q. Did you ever deviate from them in the sales of your
9366 product—your refined oil and gasoline?—A. Never have.

Q. During the twelve years that you have been connected with the company?—A. No, sir.

Q. Have you any right at all to exercise your own judgment with respect to prices, or are you obligated to take your prices from the main office?—A. I am supposed to adhere to prices, which I do.

Q. Who were your principal competitors in refined oil and gasoline in your territory?—A. The Red "C" Oil Company, at the time I was in the refined department, were the only ones that I can recall to mind.

Q. Can you give us any cases of price cutting on the part of the Red "C" Oil Company during that period of time?—A. I have one

instance—Bennettsville, South Carolina—I suppose somewhere about 1900, as well as I can remember, where they cut the price. They put in a carload of refined oil.

Q. How much of a cut—do you remember?—A. I can't tell you positively, but it was a cut below our tank-wagon price, which induced the trade there to give them a carload order.

Q. Where did you say that was?—A. Bennettsville, South Carolina.

Q. And when?—A. That was about 1900, I think.

Q. Your business has been mainly in connection with the sale of lubricating oils, has it not?—A. Yes, sir; in the past six years.

Q. And you have not in mind now any other instance or instances of price cutting by the Red "C"——A. No, sir.

Q. In connection with the sale of refined oil?—A. No, sir.

9367 Q. Who were your principal lubricating oil competitors?—A. The Leonard & Ellis people, of Philadelphia; A. W. Harris & Company, of Providence, Rhode Island; W. C. Robinson & Son, of Baltimore; Harwood Bros., of Richmond; North Carolina Oil Company, of High Point, and a various number of Cleveland concerns, if you would like to have me mention them.

Q. I would like to have you give those Cleveland concerns.—A. The Valley Lard Oil Company, Studley Refining Company.

Q. Is that Mr. Castle's company?—A. I do not know, sir. Crown Oil Company, L. C. Carran Company.

Q. Have you come in contact with many instances or many cases of price cutting on the part of your lubricating oil competitors during the last six years?—A. Yes, sir.

Q. How many would you say?—A. I have a great many instances.

Q. A great many, or a few?—A. When I say a great many, I have in mind probably half a dozen or a dozen.

Q. That you have in mind now?—A. Yes, sir.

Q. Have any of these competitive lubricating concerns a habit of giving away goods as an inducement to customers to buy?

Mr. KELLOGG. I object to his testifying to a habit. He may state if they did.

Mr. ROSENTHAL. A practice.

A. I have in mind one instance where a donation was offered with a sale of goods.

Q. I show you a letter purporting to be written by the Studley Refining Company, signed by T. S. Ryan, manager. Where did you get that letter from?—A. That was given me by the superintendent of the Linn Mill Company, Landis, North Carolina.

9368 Q. When? Some time after it purports to be written?—A. Yes, sir.

Q. It purports to be written February 14, 1907.—A. Very soon after that.

Mr. ROSENTHAL. I offer the letter in evidence.

(The same was marked "Defendants' Exhibit 93," and is as follows:)

"Office and Works: Holton Ave., and C. & P. Ry.
"THE STUDLEY REFINING COMPANY.
"Extra fine lubricating oils and paint.
"All goods guaranteed to give perfect satisfaction in every respect or no sale.

"CLEVELAND, O., *Feb. 14, 1907.*

"LINN MILL CO., *Landis, N. C.*

"GENTLEMEN: On account of delay in delivery we have for disposal one barrel of Peerless Machine Oil and one-half barrel of Premium Cylinder Oil shipped to your place, and in view of the expense we do not want to have the goods returned. We would be glad if you will help us out and permit us to have same delivered to you. Will make price 19¢ per gallon for the Machine Oil and 31¢ per gallon for the Cylinder Oil, all less freight, no charge for packages and terms to suit your convenience. Will also as a special inducement ship you free of cost a ten-pound can of our Celebrated Premium Belt Dressing, which is without doubt the best Belt Dressing on the market to-day. We guarantee the Machine Oil and Cylinder Oil to give entire satisfaction in every respect.

9369 "Trusting to hear from you by return mail, we beg to remain,

"Yours, truly, "THE STUDLEY REFINING CO.
"By T. S. RYAN, *Manager.*"

Q. Give me as many cases as you now remember of price cutting in connection with the sales of lubricating products.—A. In one instance, 1904——

Q. Give them to me in detail as much as you can.—A. P. H. Thompson, Salisbury, North Carolina. I was selling him an engine oil at 15½ cents, delivered, and the price was cut by Harwood Bros. on an order at 15, delivered, guaranteed as good, and they secured the order.

Q. How much of a cut was that?—A. That was half a cent.

Q. Go right ahead and give me the other cases.—A. The Salisbury & Spencer Railway Company. Harwood Bros. in that case put in a barrel of cylinder oil and a barrel of engine oil on a cut price and guaranteed the goods to be equal to the Standard Oil Company's goods. And another instance: Parsons Drug Company, of Wadesboro, North Carolina. I was selling them at 16¾, Wilmington, North Carolina, 2½ cents freight rate added, which would make it about 19¼, and W. C. Robinson & Son duplicated the oil at 16 cents, delivered.

Q. State in each instance the amount of the cut.—A. That was a cut of about 3 cents—practically 3 cents—3¼ cents, I think. Another instance was the Selma Cotton Mills, Selma, North Carolina,

9370 this past February, 1908, where W. C. Robinson put in a line of oils at a cut price against our oils, which they had been using for the past two years. In that instance I didn't get the prices, but

they cut the prices, because they secured the business by doing so, or they never would have gotten it.

Q. Any other cases?—A. R. A. Brown & Son, Concord, North Carolina. The prices were cut by W. C. Robinson. They put in an oil at 18 cents delivered against an oil I was selling at 21 cents, guaranteed.

Q. Guaranteeing what?—A. Guaranteed the grade of the oil against the oil I was selling.

Q. To be as good as your grade?—A. Yes, sir. Put it in on quality basis.

Q. Did they get the business?—A. They secured an order on the offer, but I have sold them since.

Q. Any other cuts?—A. At the city of Monroe, North Carolina. The cut was made by the National Oil Company in that case, and they secured the business. The cut in that case I can't give to you in number of cents, but I was afterwards told by the man in charge, who directed that plant, that he got a rake off, and that is why he gave the National Oil Company his business, and mentioned that if I would make such an arrangement with the man that he was going to leave behind that he would see that I got the business.

Q. Did you do it?—A. I replied to him that we were not out buying business. Another case: S. J. Welch, at Monroe, North Carolina. I was selling an oil at 14¼ cents f. o. b. Wilmington, 2½ cents
9371 freight rate, making it 16¾ delivered. The National Oil Company quoted him a price against that at 15 cents, and guaranteed the same quality.

Q. Any others?—A. I don't recall to mind just now any others.

Q. Have the National and the Red "C," during these past six years, cut prices frequently in your territory within your observation?—A. That is my experience, that they have cut prices invariably.

Q. Has the Standard ever initiated any cut in the price——A. None whatever.

Q. In your territory?—A. None whatever.

Cross-examination by Mr. KELLOGG:

Q. When you say "cut frequently," you mean the cases you have given?—A. Yes, sir; of course.

Q. They are the only ones you know of?—A. Yes, sir.

Mr. ROSENTHAL. The only ones you know of, or the only ones you now remember?

WITNESS. Well, the only ones I now remember.

Q. Do you remember any other?—A. I do not right now.

Q. Then, you don't know that there were any others?—A. Well, it might come to my mind that there were.

Q. But you have no recollection of ever having known of any other, do you?—A. I have no recollection now, at the present moment.

Q. Now, you say as to S. J. Welch, Monroe, the National quoted him a price. Did they sell him?—A. He didn't sell them, but he tried to break my contract with them.

Q. He tried to sell them?—A. He did.

9372 Q. What was your contract?—A. My contract was 14¼ f. o. b. Wilmington, North Carolina.

Q. Running for how long?—A. For one year.

Q. At the end of the year he tried to sell them?—A. He tried to sell them before the contract had expired.

Q. You know that simply from what they told you?—A. I know that from what the buyer told me. He was a very honorable man.

Q. All these cases you give are from what the customer told you?—A. Yes, sir; except in this case of the letter I produced here.

Q. All these cases of lubricating oil are within the last year or two?—A. From 1904 up.

Q. What one was in 1904?—A. The one of P. H. Thompson was in 1904.

Q. Your price was 15⅛ cents, delivered?—A. Yes, sir.

Q. Harwood Bros. sold at 15 cents, delivered; is that correct?—A. That is correct.

Q. Who are Harwood Bros.?—A. They are oil dealers in Richmond, as I understand it.

Q. Selling Standard oil, aren't they?—A. I do not know it, sir.

Q. Did you ever hear they were?—A. I did not.

Q. Did you hear that they were?—A. I don't know as I ever heard it from any good authority.

Q. Well, you have heard it a great many times?—A. I have had customers say to me no doubt they were part of the Standard

9373 Oil Company, to which I replied, "I know nothing about it."

Q. The fact is they were?—A. I don't know.

Mr. ROSENTHAL. The fact is they were not and are not.

Mr. KELLOGG. Do you want to go on the stand and testify to that, Mr. Rosenthal?

Mr. ROSENTHAL. I am simply replying to your positive statement, that is all.

Q. There are a great many grades of lubricating oils, aren't there?—A. Why, yes, sir; there are some grades.

Q. A great many grades, aren't there?—A. Well, not——

Q. A dozen or fifteen grades?—A. Not that I am familiar with.

Q. Different companies make different grades, don't they?—A. I suppose so.

Q. Now, you say you were traveling in the Wilmington district?—A. Yes, sir.

Q. In 1903?—A. Yes, sir.

Q. Was Lincolnton in your district?—A. No, sir.

Q. Whose district was that in?—A. I do not know.

Q. How far is that from your district?—A. I couldn't tell you.

Q. Never was in your district?—A. Never was.

Q. Where is Lincolnton?—A. As I understand, it is in the western part of North Carolina.

Q. How far from Wilmington?—A. I couldn't tell you.

Q. You say in 1900 the Red "C" sold a carload of oil in Barnettsville?—A. Bennettsville, South Carolina. I said about 1900. I didn't say positively.

9374 Q. What price did they sell it at?—A. I couldn't give you the price, but it was on a cut basis.

Q. How do you know it was?—A. Because I was told by every merchant that bought it, and that was their reason for buying it, leaving our tank-wagon service.

Q. You were delivering in tank wagon?—A. We were delivering in tank wagon.

Q. You don't know what the price was at all?—A. I do not.

Q. The merchants bought a carload of oil there?—A. Yes.

Q. Only one carload?—A. That is all I have any recollection of at all, sir. And I think that made them sick.

Mr. ROSENTHAL. As a rule that is all they bought of the Red "C," isn't it?

WITNESS. Yes, sir; as far as I know.

9375 RICHARD R. BURNETT, called on behalf of the defendants, being duly sworn, testified as follows:

Direct examination by Mr. ROSENTHAL:

Q. State your name, residence, and occupation.—A. Richard R. Burnett, 2010 Venable street, Richmond, Virginia.

Q. How long have you been employed by the Standard as tank-wagon driver?—A. Since January 1, 1907.

Q. What do you sell?—A. At present I am only selling gasoline and naphtha.

Q. Have you ever sold refined oil?—A. Yes, sir.

Q. Where do you get your prices from?—A. Richmond office.

Q. Did you ever sell at lower prices than what the office gives you as the price list?—A. No, sir.

Q. Have you ever done that?—A. No, sir.

Q. During the twenty months that you have been employed?—A. No, sir.

Q. Have you ever known that being done?—A. No, sir.

Q. Have you any authority to do anything of that kind?—A. No, sir.

Q. Who were your competitors on your route?—A. The National Oil Company and the Richmond Oil Company. Did you ask me who were or who are now? We had a Southern.

Q. Who are now, the Richmond?—A. No; the National bought the Southern out.

Q. You have now as your competitors the National and the Richmond?—A. The National and the Richmond.

9376 Q. I would like to have you state, if you can, as many instances as you now remember of price cutting, if there were any, made by the Richmond or the National on the route covered by you in Richmond, Virginia, or in that vicinity, during the twenty months that you have been employed?—Yes, sir. A short while

ago—the Coast Line boat harbor is some distance from our plant. We would not make special deliveries in small quantities, and Mr. Cowardin, who had charge of the place, suggested a plan to keep oil down there for the convenience of these small customers, and he told me that they came to our company and they would not offer him any inducement, would not give him any inducement, and that he went to the Richmond and they gave him a 110-gallon tank and a lot of engine oil, and for that reason he was under obligation to buy from them at that time, but would possibly buy some from me later.

Q. Do you know Mr. E. C. Gaulding, of Cedar Forks, Virginia?—A. Yes, sir.

Q. Mr. O. R. Cook, of Highland Springs, Virginia?—A. Yes, sir.

Q. Henry Legacy, Fair Oaks, Virginia?—A. Yes, sir.

Q. Mrs. McEwin, East Richmond, Virginia?—A. Yes, sir.

Q. Have you known them a long time?—A. I have known them all my life, a portion of them; and a portion of them I have only been acquainted with since I have been with the company.

Q. Are they in the business of buying and selling kerosene oil?—A. Yes, sir; merchants.

9377 Q. And from whom have they been buying?—A. They have been buying from the Standard the whole time. From what I can learn from them, no other company has ever operated the route.

Q. Do you know of any cut price that was offered them by the Richmond Oil Company?—A. About the middle of February, 1908, the Richmond's tank-wagon driver called on the following parties, each of them that you have named, and offered a price of 7½ cents for low-grade oil and 8½ cents for high-grade oil. Our price at that time was 8 cents for Standard White and 9 cents for Aladdin.

Q. Were those your two grades?—A. Those were my two grades.

Q. A low and a high grade?—A. Yes, sir; Standard White and Aladdin.

Q. And was the business lost by you?—A. No, sir. They told me that they would buy from me if we met the prices that they had offered them. We had been making regular deliveries regardless of road or weather, and the roads were very bad sometimes. I have often had to add on two extra teams, and the two that I was driving in the spring I bought from the company at about half what they were worth when I started. They gave me a week's time to meet that price. They said they would buy from me in preference to the other company at equal prices.

Q. Friends of yours, were they?—A. Friends of mine. Some of them came from down where I was raised, down in Hanover, and partly connected with the family.

Q. What did you do?—A. I reported the matter to the office and told them the time they gave me to meet the price, and the

9378 day before the Richmond was coming down Mr. Sampson called me up on my route in Richmond——

Q. Well, did you meet the price?—A. Yes, sir; I met the price.

Q. How long afterwards?—A. I met it within the time they gave me. They gave me one week's time to meet the price or else they would buy from the other company, and the day before my time was out we met the price, and I kept on. They sold them some oil, but not much.

Cross-examination by Mr. MORRISON:

Q. How does the National deliver there?—A. By tank wagons in that territory. I only know in that territory.

Q. You were both delivering, then, from tank wagons?—A. All the deliveries in that territory are made by tank wagon, from all three companies that are now in operation.

9379 J. FLEM JOHNSON, called on behalf of the defendants, being duly sworn, testified as follows:

Direct examination by Mr. ROSENTHAL:

Q. Please state your name, residence and occupation.—A. J. Flem Johnson, Gastonia, North Carolina; traveling salesman for the Standard Oil Company.

Q. How long have you been traveling for the Standard Oil Company?—A. Since May, 1900.

Q. In what territory?—A. The first six years I had part of North and South Carolina. Since May, 1906, I have been in North Carolina strictly.

Q. What do you do?—A. I sell gasoline and refined oils.

Q. Where do you get your prices from?—A. From Wilmington up till September first; we get them from Charlotte now. I travel out of Wilmington.

Q. In what way do you get your prices?—A. By price-list. If there is any change in price I get it by wire; if it is a sudden change I get it by wire.

Q. Have you any authority to change the prices yourself in your field?—A. No, sir.

Q. Have you ever done so?—A. No, sir.

Q. During these six years who have been your principal competitors in the sale of refined oil and gasoline?—A. The Red "C" is my main competitor; the North Carolina Oil Company; and in 1900 and 1901 Leonard & Ellis sold refined oils in my field, which is the Valvolene Oil Company now, I think.

9380 Q. Do you remember of any cases of price cutting by any of these competitors in your field?—A. I can only repeat a few of them, but I remember there were many of them. I could call towns, but I am not in a position to name dates and prices.

Q. You have been employed since 1900?—A. Yes, sir.

Q. That is eight years. Has the price cutting by your competitors been frequent during those eight years?—A. Yes, sir.

Q. Can you give us any notion whatever of the aggregate number of price cuts during those eight years?—A. No, sir; I can not.

Q. Do you remember of a case back in 1903, of a price cut by the Red "C" at Lincolnton, North Carolina?—A. We had several cuts there, but I can't tell you just what the prices were.

Q. Cuts by whom?—A. By the Red "C" Oil Company.

Q. In 1903 did the Red "C" make any cuts at Monroe, North Carolina?—A. Yes, sir.

Q. Do you remember what that cut was?—A. I don't remember the amount.

Q. Do you remember how much the cut was?—A. I think it was half a cent. I am not absolutely positive about that.

Q. Do you know of a cut made by the Red "C" in December, 1903, at Chester, South Carolina?—A. I remember there was a cut there, but I don't know the amount.

Q. Wylie & Company?—A. I know the firm.

Q. Is there such a concern there?—A. Yes, sir.

Q. Did they get Wylie & Company's business at that time
9381 by making a cut?—A. Yes, sir.

Q. Do you remember of a cut back at that time at Whitmire, South Carolina?—A. Yes, sir.

Q. To Charles Titmarch?—A. Yes, sir.

Q. Do you remember how much of a cut that was?—A. It was a difference in the freight, and I don't know what the freight is between Chester and Whitmire. They delivered their goods f. o. b. Chester.

Q. Do you remember a cut at Concord, North Carolina, to G. W. Patterson?—A. I don't recall that.

Q. You don't remember that?—A. No, sir.

Q. Gaffney, South Carolina.—A. There was a cut there.

Q. Do you remember how much?—A. A half a cent, I think it was.

Q. 1904, January?—A. Yes, sir.

Q. Do you remember any cut at Mooresville, North Carolina, about four or five years ago?—A. Yes, sir; I remember a cut there.

Q. By the Red "C"?—A. Yes, sir.

Q. Do you remember how much that was?—A. I can't give you the amount. It was either half or three-quarters of a cent.

Q. Was that their customary cut in your territory?—A. Anywhere from a half a cent to a cent.

Q. Do you know of a cut that they made to R. H. Causer at Chester, South Carolina?—A. I don't recall that.

Q. Do you remember any other cuts?—A. I remember a cut at Lincolnton in 1907 through the Eureka Manufacturing Company, 15
drums of benzine or naphtha—or it was gasoline. I beg your
9382 pardon. Our price was 18 cents f. o. b. Hickory; their price was 17 cents delivered.

Q. Any others?—A. In 1904 the Red "C" took the furniture business at Hickory from us—the Martin Furniture Company, the Hickory Furniture Company, and the Piedmont Wagon Works, at Hickory, North Carolina—at a price of 13½ cents, while our price was 15 cents. I didn't mention W. C. Robinson a while ago as a

competitor. They have not been a competitor except in one instance, at Lenoir, North Carolina. In 1906 Robinson sold V. M. P. naphtha at 14½ cents. Our price was 18 cents.

Q. Any others that you remember?—A. I don't remember any more. I do remember one at Monroe, North Carolina, the Piedmont Buggy Company.

Q. Do you remember how much of a cut that was?—A. That was a difference between 18 and 15½; that is 2½ cents, isn't it?

Q. By whom was that cut?—A. That was cut by the Red "C" Oil Company.

Q. During all of the years from 1900 up to 1908 has the Red "C" been cutting its prices in your territory?—A. Yes, sir.

Q. Is the National a competitor of yours?—A. No, sir.

Q. Do you remember any cut at Newton, North Carolina, J. F. Smyre?—A. J. F. Smyre, 5 barrels of oil; yes, sir.

Q. By whom was that cut made?—A. That was by the Red "C."

Q. Metzel?—A. Metzel.

Q. Metzel made a cut at Newton, North Carolina, December, 1904?—A. That was about a cent. I am not positive about that, though. My reports would show it. I have no memorandum.

9383 Q. Any others that you remember?—A. None that I know of.

Cross-examination by Mr. MORRISON:

Q. How were you delivering in these various places?—A. Mostly by tank wagon.

Q. How were your competitors who made these cuts delivering?—A. In barrels; in some places using a rotary pump and pumping it out, making bulk delivery.

Q. The general delivery was in barrels, wasn't it?—A. Yes, sir.

Q. The trade prefers tank-wagon delivery, doesn't it?—A. Yes, sir.

Q. In order for people selling in barrels to sell at all, they must necessarily sell for a lower price?—A. I don't know that, sir.

Q. They can't get the business, can they, unless they do, as against your tank-wagon delivery?—A. We don't get all the business.

Q. You get nearly all of it, don't you?—A. I don't know that we get nearly all of it.

Q. You get 90 per cent of it, don't you?—A. I don't know the percentage; we get a good deal of it, though.

Q. Yes, sir. You would get all of it, wouldn't you, or practically all of it, if you sold at the same price?—A. I don't know about that. I would hope to. I would try to get it all.

9384 Q. The fact is that the Red "C" and these other independents must necessarily sell their oil lower than yours on account of their defective methods of delivery? Isn't that true?—A. I can't answer that, because I don't know.

Q. You don't know?—A. I don't know.

Q. You spoke about a cut in one place of 2½ cents. That was at Monroe. What was that on?—A. That was on gasoline.

Q. How did you know that?—A. I have got the original invoice.

Q. Where did you get it?—A. Mr. Payne gave me the invoice.

Q. Who is Payne?—A. He is secretary and treasurer of the Piedmont Buggy Company.

Q. Did the invoice show the degree of the oil?—A. It was gasoline. The same grade of stuff that we had been selling as gasoline engine.

Q. Was the degree numbered on it?—A. There was no degree on it.

Q. Did you see the gasoline?—A. No, sir; I didn't examine the gasoline.

Q. So you don't know whether it was the same or not, do you?—A. Well, he was running his engine and I know it would have to be a certain degree to run an engine.

Q. Are there not a great many different degrees of gasoline oil?—A. I know of three.

Q. And any one of them will run an engine?—A. That is in naphthas. The way it is given to me is 63s, 74s, and 86s.

Q. You don't know what degree this was that was sold?—A. No, sir.

9385 Q. Where is that invoice?—A. I have it in my possession.

Q. Have you got it here?—A. No, sir; I have not.

Q. Where is it?—A. It is in my grip.

Q. Is that the only invoice you have got in any of these cases?—A. No, sir. I don't take the customer's word for prices.

Q. You got invoices in all these cases?—A. No, sir; not all of them; but they show them to me.

Q. Why didn't you bring them over here?—A. Because I didn't think it was necessary.

Q. You thought it was necessary to bring them here to New York, didn't you?—A. No.

Q. Well, you did bring them, didn't you?—A. Yes.

Q. What did you do it for if you didn't think it was necessary?—A. Because it is the same grip I carry those things in all the time.

Q. Oh, they just happened to be left over in your grip?—A. I keep them; yes, sir.

Q. Have you got a gripful here?—A. No; I haven't got a gripful.

Q. How many have you got?—A. I have got about a hundred and some odd reports up there.

Q. I am talking about invoices.—A. I have got five or six invoices.

Q. How long have you been gathering them up?—A. Five or six years, I reckon. I expect I could get a hundred invoices if I would go back to my desk and files.

Q. I am not asking you what you expect; I am asking you what you have got.—A. I have got them all ever since I have been

9386 with the company.

Q. Have you got them all here?—A. No; I have not.

Q. Now, you got your prices at first from Wilmington, didn't you?—A. Yes, sir.

Q. Where are your headquarters—Gastonia?—A. Gastonia.

Q. Has that been your headquarters ever since you have been working for the Standard Oil?—A. Yes, sir.

Q. Have they got a tank station there?—A. Yes, sir.

Q. And you live there?—A. Yes, sir.

Q. You get your orders generally by mail, don't you?—A. By mail, and if there is a change in price I get it by wire.

Q. Do you often get changes by wire when you are on the road?—A. Very seldom.

Q. Where do you ordinarily get your wire? When you are at home?—A. They wire me at Gastonia, and my agent there knows where I am at all the time, keeps up with my route.

Q. He wires you?—A. He will have it reconsigned to me, forwarded.

Q. You frequently get wires to change prices, to either raise or lower them, don't you?—A. No, sir. I don't think I have had a wire in a year or so.

Q. The prices change quite often, don't they?—A. Not in my field.

Q. How often do they change in your field?—A. I don't think I have had a change in my field in two years. Might have had a change in the gasoline or the naphtha, but——

Q. Selling at the same price winter and summer?—A. Yes, sir.

Q. Right through?—A. Yes, sir.

9387 Q. Do you know that ordinarily when there is brisk competition oil sells lower in the summer than it does in the winter?—A. No, sir; I don't know that.

Q. Have you ever been in any other territory——A. No, sir.

Q. Than the territory you are in now?—A. The same territory that I started in.

Q. Who fixes the prices for oil in your territory?—A. I don't know, sir.

Q. When you say a cut in the price, what do you mean by that—selling for less than you do?—A. Yes.

Q. Did you ever meet those prices, any of them?—A. Yes; I have met them, and sometimes I have not met them.

Q. Did you ever happen to get below your competitor?—A. No, sir; not to my knowledge.

Q. In all these years?—A. Not to my knowledge.

Q. Did the independents ever make up carload lots and send into your territory?—A. Independents?

Q. Yes.—A. Independent oil concerns?

Q. Yes, oil concerns. I mean now outside of the Standard—the Red "C" or any other.—A. Many a time.

Q. Many a time?—A. Yes, sir.

Q. And distribute those carloads in barrels to different customers, did they not?—A. Yes, sir.

Q. In the same town or the same vicinity?—A. Yes, sir.

Q. Did you keep track of that kind of business?—A. Yes, sir.

Q. What did you do when you found out the carload was coming into your territory?—A. I went after that business, to try to
9388 see what the trouble was, and get it back if I possibly could.

Q. Did you notify anybody?—A. Notify anybody?

Q. Yes; that a carload was coming into your territory.—A. I have notified them.

Q. Whom did you notify?—A. I notified the Wilmington office.

Q. Well, you always did, didn't you?—A. Yes, sir.

Q. That was part of your duty, wasn't it?—A. Well, no. My duty was to sell oil, keep the trade satisfied, and look after tank wagons.

Q. It was just as much a part of your duty, was it not, to report competitive shipments into your territory?—A. I should think so; yes; to be loyal to my company I would have to do it.

Q. And did you report by wire or did you report by letter?—A. Sometimes by wire and sometimes by letter.

Q. Did you ever find out before the oil got in there that the carload was coming?—A. Yes; I have been in a town with my competitor when he would be making up a car.

Q. Did you make any effort to prevent him from making up the car?—A. Why, sure; I got may tank wagon busy, and I would go right out to see. I didn't want him to take all my trade away from me. I wanted to have as much a chance at it as he had.

Q. Did you ever succeed in breaking up any carloads after the order had been given?—A. Not to my knowledge. I didn't.

Q. Are there other salesmen in your territory for the Standard except you?—A. Yes; there are two lubricating men—Mr. Farrar, who has just testified, and Mr. John S. Waters.

Q. Anybody else selling gasoline, naphtha, and illumina-
9389 ting oil but you?—A. That is all.

Q. You said there was a cut, I think, at Chester. What was that on?—A. That was on refined oil.

Q. What was the cut?—A. I don't remember now.

Q. To Wylie & Company?—A. I don't remember.

Q. When was that?—A. That was in 1903.

Q. What were you selling for then?—A. I don't recall that.

Q. What was the cut in—oil, gasoline, or what?—A. Oil.

Q. What grade or brand of oil?—A. We were selling Aladdin and they were selling Columbia brand.

Q. Are they the same—A. The Red "C" claim it to be the same. I don't know.

Q. You claim yours is better, don't you?—A. No, sir; I do not. I claim that it is as good.

Q. That is as far as you ever go?—A. That is as far as I have ever gone.

Q. You never told any customer that you thought yours was a better grade of goods than the other?—A. No, not——

Q. You didn't think so, did you?—A. No; I didn't think so. I thought we had better oil, but I didn't think it good business

9390 to go and tell any man, to run down a competitor. I never did think it good business running a competitor down.

Q. While you thought you had better oil, you didn't think it wise to tell your dealers that you thought so?—A. No, sir; I do not.

Q. You refrain from that for business reasons?—A. Yes, sir.

Q. It is not best to say, when you are trying to sell your goods, that your goods are of a superior quality?—A. No, sir; I don't think it is good business.

Q. You never did that in your life, did you?—A. No, sir; I never did.

Q. You never permitted yourself to do that?—A. No, sir. I was familiar with the Red "C." Their brand of Columbia oil is a higher grade than their Sunbeam brand.

Q. What I understand you to say is that you never permitted yourself to say to your customers or to people whose trade you solicited that your goods were better than your competitor's?—A. If we were selling Aladdin oil in a town and the Red "C" was selling Sunbeam, I told the customer that our oil was costing more money, was a better grade oil, but when we were both selling common oil, I told him that it was as good as his.

Q. Here was a man by the name of Titmarch at Whitmire. What was the cut there?—A. I don't recall the exact amount, but it was a cut. I think it was a difference in the freight. They delivered it over there and ours was f. o. b. Chester.

Q. Were you delivering there in barrels?—A. Yes, sir.

Q. What were you selling for, do you know?—A. I do not know.

9391 Q. F. o. b. Chester?—A. I do not know.

Q. And you don't know what your competitor was selling for?—A. No, sir.

Q. Who was this competitor that made the cut there?—A. The Red "C."

Q. Who was the salesman?—A. They had an agent by the name of Mr. Heath.

Q. Was he a traveling salesman?—A. He made some trips occasionally out of Chester; yes, sir; they had a warehouse there.

Q. Did he live in Whitmire?—A. No; he lived in Chester.

Q. There was a cut at Gaffney?—A. Gaffney, South Carolina; yes, sir.

Q. Who was the merchant there?—A. The merchants; they sold nearly every merchant in town.

Q. At half a cent cut?—A. I think it was a half a cent.

Q. On illuminating oil?—A. On illuminating oil; yes, sir.

Q. What were you selling for at that time?—A. I can't tell you.

Q. What were they selling for?—A. I couldn't tell you.

Q. You have no recollection as to what the price was?—A. No, sir.

Q. All you remember is that there was a cut?—A. Yes, sir.

Q. How did you find that out?—A. I went around and the merchants showed me the duplicate orders that were taken.

Q. And did they buy of you after that?—A. Yes——

Q. These same merchants?—A. After this car was disposed of.

Q. They made up a carload?—A. Yes; made up a carload.

Q. Were you shipping in there in carload lots?—A. Tank cars.

A recess was here taken until 2 o'clock p. m., at which time the witness was recalled and examined by Mr. Campbell, as follows:

9392 Q. You spoke this morning of five or six invoices that you had brought with you to New York, showing cuts by various of your competitors in your field [handing witness papers]. I ask you to look at these papers and state whether those are the invoices to which you refer?—A. Yes, sir.

(Papers marked "Defendants' Exhibits 94 to 99," inclusive.)

Q. I show you one of these invoices, marked "Defendants' Exhibit 94," and a shipping receipt annexed, marked "Defendants' Exhibit 95," and ask you where you obtained those?—A. I got those from the Grace Furniture Company.

Q. When?—A. I could not tell you the exact date I got those, but it was some time ago.

Q. What is the date of that?—A. This is June 1, 1907. I have had it in my possession for quite a long time.

Q. Just go ahead and explain that transaction. Is that one of the cuts that you testified to this morning?—A. This is one of them; yes, sir. Well, we lost this business on the cut price.

Q. What is the price shown in that invoice?—A. This is 12½ cents.

Q. What was the Standard Oil Company's price at that time?—A. 16 cents.

Q. And that was therefore a cut of how much?—A. Well, this freight is added. This is f. o. b. High Point. I don't know exactly what that freight is; something like a cent a gallon; not more than a cent a gallon. That would make it 13½ cents, against our price of 16 cents.

9393 Q. Will you look at Defendants' Exhibit 96 and state where you got that?—A. I got this from Mr. Hall.

Q. And when did you get that?—A. I got this about five or six months ago; I can't tell just when I got it.

Q. Is that a cut in price that you testified to this morning?—A. Yes, sir; 13½ cents as against 16 cents.

Q. Against 16 cents?—A. Yes.

Q. And 16 cents was the Standard's price at that time?—A. Yes.

Q. Will you look at Defendants' Exhibit 97 and state what that is and where you got it?—A. I got this from Mr. Payne.

Q. On or about the date of that paper?—A. Yes, sir.

Q. What is that date?—A. This is May 24th—no, it is January. This is a copy of the invoice up here. There is no date on here, but I asked him for it and I can't tell. I have had this paper for quite a good while.

Q. For how long?—A. It has been five or six months.

Q. Is that an instance of a cut price to which you testified this morning?—A. Yes, sir.

Q. And what is the cut shown there?—A. 15 cents, against 18½ cents, our price.

Mr. MORRISON. What is that?

WITNESS. That is on gasoline.

Q. That is 15 cents on the part of the competitor as against 18 cents, the price of the Standard Oil Company?—A. Yes, sir.

Q. Now, will you look at Defendants' Exhibit 99 and state where you obtained that, and about when?—A. I got this from Mr. Harper, of the Harper Furniture Company.

9394 Q. And what is the date of that invoice?—A. This is August 1, 1906.

Q. And did you get it from him shortly after that date?—A. I got it about a year ago. I have been trying to get this business for some time, lost on account of the cut.

Q. Did you testify to that instance of price cutting this morning?—Yes, sir.

Q. What is the cut shown by that invoice?—A. About 2½ cents a gallon; our price is 18 cents, against 14½, theirs.

Q. You say that the Standard Oil Company's price at that time was 18½ cents?—A. At Monroe it was 18½ cents, but at Lenoir, the one you just asked me about there, of the Harper Furniture Company, our price was 18 cents.

Q. At Monroe, May 20, 1907?—A. Our price was 18½ cents delivered, in drums, for gasoline.

Q. (Showing witness Defendants' Exhibit 98.) I will ask you to state what that is.—A. This is an order sent to the Wilmington office by our agent for a barrel or drum of gasoline, for Simpson, of that place.

Q. Showing that the Standard price at that date was how much?—A. Was 18½ cents.

Q. That is Defendants' Exhibit 98?—A. Yes, sir.

Mr. CAMPBELL. I offer in evidence Defendants' Exhibits 94 to 99, inclusive.

Mr. KELLOGG. They are objected to as incompetent.

Cross-examination by Mr. KELLOGG:

Q. All you know about these being original bills is what the

9395 customers told you, is it?—A. What they gave me; yes, sir.

Q. They gave them to you as original bills?—A. Yes, sir.

Q. You don't know anything about it yourself?—A. I would not have any right to know, except they were using that class of goods.

Q. Now you take this one here of the Piedmont Buggy Company at Monroe, North Carolina. This shows 108 gallons at 15 cents. What was your price?—A. 18½ cents.

Q. Delivered at Monroe?—A. Yes, sir.

Q. This does not show whether it was to be delivered at Monroe or not, does it?—A. It was delivered, because Mr. Payne told me that it was delivered.

Q. The bill does not show whether it was delivered at Monroe or not, does it?—A. I don't know, except what he gave me there.

Q. You don't know whether they paid any freight on it or not?—A. I absolutely know what Mr. Payne told me, and he is a truthful man. I don't know anything about it.

Q. What did Mr. Payne tell you about the freight?—A. He told me it was delivered.

Q. Where did he say it was shipped from?—A. I don't know that he told me where it was shipped from.

Q. Where did he say it was delivered?—A. At Monroe.

Q. Naturally, it was delivered at Monroe; but did he pay any freight?—A. He did not pay any freight; no, sir. That is what he told me. He told me he paid no freight.

Q. All these other cases were the same?—A. Yes, sir, except High Point, there, and they have got the freight receipt attached.

9396 Q. At High Point the freight receipt is attached?—A. Yes, sir—showing the freight.

Q. There are many grades of gasoline, aren't there?—A. There are three of naphtha that I know of.

Q. You mean your company sells three grades of naphtha?—A. That is all I know of. I have never represented anyone else.

Q. Naphtha made from different crudes in the country is of different value in the grade, is it not?—A. I do not know.

Q. You don't know anything about that?—A. No, sir.

Q. You don't know where this naphtha was made?—A. No, sir.

Q. Nor from what crude it was made?—A. No, sir.

Q. Nor anything about it?—A. No, sir.

Q. Did you testify in relation to the Red "C" cutting a price at Lincolnton?—A. This morning?

Q. Yes.—A. Yes, sir.

Q. In 1903?—A. I think so; yes, sir.

Q. To whom was the price cut—what merchant?—A. McGhee & Sons and Edgar Love & Company.

Q. What price did the Red "C" make to Love?—A. I don't know.

Q. How do you know they cut?—A. Because I was there and knew that they cut. Edgar Love told me so himself.

Q. He did?—A. Yes, sir.

Q. About what time in 1903 was that?—A. I could not tell you the date.

Q. The beginning of the year or the end of the year?—A. I

9397 judge it was in the spring of the year, or it may be in the fall. I will not testify to the date, because I don't know.

Q. You don't know what date it was?—A. No, sir; I don't.

Q. You don't remember whether it was in winter or summer?—A. No, I do not.

Q. Did the Red "C" ship a carload in there?—A. Yes, sir.

Q. And Mr. Love told you that they made a cut of how much?—A. I don't remember the exact amount that he said they cut. It was a cut price; I think something like half or three-quarters of a cent.

Q. Were you traveling from the Wilmington office at that time?—A. Yes, sir.

Q. Who was the manager at that time?—A. W. R. Barksdale.

Q. Did you try to get that business?—A. I certainly did.

Q. Mr. Love told you that he and somebody else had ordered a car, did he?—A. They were making up a car; yes, sir.

Q. And you were there in town?—A. I was there at one time. I don't know whether that was the particular time or not. The Red "C" Oil Company has shipped at various times, various years.

Q. In 1903 the Red "C" were making up a car there, were they?—A. I guess they were; yes, sir.

Q. Did you notify Mr. Barksdale?—A. I notified Mr. Barksdale on one occasion.

Q. What did he say to you?—A. I don't remember his reply at all.

Q. Did he in fact telegraph you: "If you can stop car going
9398 to Lincolnton, I authorize rebate to Love of three-fourths of a cent per gallon; advise?"—A. I don't remember getting any such message.

Q. You don't remember that?—A. No, sir; I do not.

Q. Who is Mr. J. F. Bukey?—A. Mr. Bukey used to be one of the managers in the Baltimore office.

Q. Did you ever receive any communication from him?—A. No, sir.

Q. You did not?—A. No, sir.

Q. I show you what purports to be a telegram or a confirmation of telegram: "Baltimore, Maryland, January 23, 1903. Mr. W. R. Barksdale, Wilmington, North Carolina. If you can stop car going to Lincolnton, I authorize rebate to Love of three-fourths cent per gallon. Advise. J. F. Bukey. 12.10 p. m. JPM. The above is a copy of my telegram to you of this date, which is hereby confirmed." Was that transmitted to you?—A. Not to my knowledge.

Q. What did you offer Love?—A. I never offered Mr. Love a cent in my life. Mr. Love has not got a bit of use for the Standard Oil Company.

Q. He has not?—A. No, sir; but he is a good friend of mine, and he gave me the information.

Q. Did he give you the information of having been offered that?—A. No, sir, he did not; because that was not offered.

(The paper referred to is marked "Petitioner's Exhibit 920.")

Mr. KELLOGG. I offer Petitioner's Exhibit 920 in evidence.

Mr. CAMPBELL. That is objected to on the ground that
9399 there is no evidence of its authenticity.

Q. You say Mr. Love has no use for the Standard Oil Company?—A. No, sir; he has no use for the Standard Oil Company.

Mr. CRAWFORD. Mr. Campbell has not stated all his objections yet.

Mr. CAMPBELL. There is no evidence of this having been written, or sent, or received, and on its face it is a copy.

Mr. KELLOGG. There will be plenty of evidence before we get through.

Q. Now, what inducements did you make to break up that carload?—A. I don't know that I made up any.

Q. What did you do to break up that carload?—A. I solicited the business, I judge; but as for offering Mr. Love a rebate I never made him any rebate.

Q. Did you offer any other of them a rebate?—A. Certainly not. I would have no right to do that.

Q. What inducement did you offer to break up that carload?—A. None that I know of.

Q. Do you know that you did not?—A. No; I can't positively say that I did not. If they had cut the price, and our price was high, I no doubt asked the Wilmington office to meet their price.

Q. Did they?—A. I don't know. I have no recollection at all.

Q. How much was the cut?—A. I testified from a half to three-quarters of a cent. I was not positive about that.

Q. You got that from Mr. Love?—A. Whatever information I got, I got from Love.

9400 Q. You think Mr. Love, at equal prices, would buy from somebody else, rather than the Standard Oil Company?—A. He would buy from somebody else other than the Standard Oil Company.

Redirect examination by Mr. CRAWFORD:

Q. When you spoke of breaking up that carload, did you mean that you had orders for that carload countermanded?—A. No, sir.

Q. What do you mean?—A. Breaking up the car?

Q. Yes.—A. I don't know that the car was broke up. I don't know anything about it at all. I think the car had gone in there, as far as that is concerned. I did not succeed in getting the car broke up, I know.

Q. You made no attempt to have any orders countermanded, did you?—A. Why, certainly not. I never made a man an offer in my life to countermand an order.

Q. This alleged copy of a telegram, Petitioner's Exhibit 920, which has been shown to you, does not purport to have been sent by you?—A. Not to my knowledge, no; I know that I never sent a message of that kind; no, sir.

Q. Nor does it purport to have been sent to you, does it?

Mr. KELLOGG. It shows on its face. What are you talking about?

A. No, it was never sent to me.

Q. Now, these invoices, Defendants' Exhibits 94 to 99, are the invoices that Mr. Morrison requested you to produce this morning, are they not?—A. Yes, sir.

9401 W. B. WATERS, called on behalf of defendants, being duly sworn, testified as follows:

Direct examination by Mr. CRAWFORD:

Q. Mr. Waters, where do you live?—A. Rockville, Maryland.

Q. What is your business?—A. I am city salesman for the specialty department of the Standard Oil Company in Washington City.

Q. By specialties do you mean candles, axle grease, and matters of that sort?—A. Yes, sir.

Q. You do not sell refined oil or gasoline?—A. No, sir.

Q. Nor lubricating oils?—A. No, sir.

Q. Were you formerly in charge of tank-wagon service at a place called New Windsor, Maryland?—A. Yes, sir.

Q. At what time was that?—A. That was from the spring of 1898 to the spring of 1899.

Q. Do you know a man named W. J. Metzel?—A. Yes, sir; I do.

Q. He testified as a witness for the petitioner in this case. He stated that at one time at New Windsor, Maryland, the Standard Oil Company gave away oil to consumers; that that company drove its wholesale tank wagon around from house to house, and gave out oil in quantities of from 2 to 10 gallons of oil to the consumers—that is, to the people in the houses, and also that at each store in the town there was a tank, presented by the Standard Oil Company to the storekeeper, and that coupons were left at the stores, and more
9402 to the same effect. Now, do you know what transaction he referred to?—A. Yes, sir.

Q. Will you state what the facts were?—A. The facts were these, sir, that the Standard Oil Company loaned to four merchants in New Windsor each a 60-gallon tank and filled it with oil, and the merchant paid the tank-wagon driver for the oil. I then went out in the town and visited the users of oil.

Q. The consumers?—A. The consumers of oil, and left with them a ticket good for one gallon of oil at the merchant's store.

Q. That is, you gave to each consumer a ticket or coupon which, if presented at one of these stores, would be good for a gallon of oil?—A. Yes, sir. Then the consumer took that ticket to the merchant and got his gallon of oil; but we did not drive our tank wagon to any consumer's house.

Q. Now, you gave out how many such coupons, and for what quantity of oil?—A. Enough to cover four tanks of oil.

Q. Four 60-gallon tanks?—A. Yes, sir.

Q. Any more than that?—A. There might have been a few more, sir, or there might not have been enough to have covered it; I can't recall.

Q. Well, you gave out about enough?—A. About enough to cover it.

Q. To cover the 240 gallons of oil?—A. Yes, sir.

Q. Did you do this on more than one occasion?—A. No, sir.

Q. Mr. Metzel stated in that connection that you continued to give away oil there for a couple of months; is that true?—A. No, sir.

Q. You say you only did it once?—A. Only once.

Q. Now, were these coupons presented?—A. Yes, sir.

9403 Q. Did they come back into your hands, the coupons?—A. Not into my hands; no, sir.

Q. Did they come back to the company?—A. Yes, sir.

Q. In what way? What was the arrangement?—A. From the tank-wagon driver, sir. When the merchant supplied his tank again, he turned those tickets in to the tank-wagon driver, and the tank-wagon driver in turn turned them in to the Baltimore office.

Q. You say the merchant turned them in to the tank-wagon driver. What do you mean?—A. When he filled his tank, you understand, those tickets were accepted at 10 cents a piece.

Q. In other words, they were accepted as money?—A. Accepted as money.

Q. For additional purchases?—A. Yes, sir.

Q. So that in effect the merchant got the first 60 gallons of oil free, the oil which was distributed on those coupons?—A. The merchant?

Q. Yes.—A. No, sir. The merchant——

Q. He paid for it in the first place?—A. He paid for it first; yes, sir.

Q. But then the coupons which came in for it were subsequently accepted by you as money?—A. Yes, sir.

Q. So that in effect he got his first 60 gallons without cost?—A. Yes, sir.

Q. The 60 gallons that were to be distributed to consumers?—A. Yes, sir.

Q. That is correct, isn't it?—A. Yes, sir.

9404 Q. To what extent were these coupons finally returned, do you know, and the oil distributed in that way?—A. There were tickets enough returned to take out every particle of the oil except 5 gallons.

Q. And was that in the hands of one merchant?—A. In the hands of one merchant; yes, sir.

Q. Do you remember his name?—A. Yes, sir.

Q. What was it?—A. Mr. G. C. Andrews.

Q. Now, in regard to that question, Mr. Metzel stated that the balance of oil left in the tank was shipped back to the Standard Oil Company in Baltimore, as the storekeepers said they had no sale for it and could not use it. Is that true?—A. No, sir.

Q. Mr. Metzel further stated that he saw one tank of this oil shipped back by a concern named Barnes & Snader. Is that the correct name?—A. Yes, sir.

Q. Was that a fact?—A. No, sir.

Q. Now, was any part of the oil shipped back to the Standard Oil Company?—A. No, sir.

Q. All of it was distributed in the way you state, except 5 gallons?—A. Yes, sir.

Q. In the hands of one dealer?—A. Yes, sir.

Q. What was the occasion of your giving away this oil in New Windsor?—A. Mr. Metzel had visited the trade, and tried to prejudice them against the tank-wagon oil, our Aladdin Water White oil,

9405 by telling them that the oil was of an inferior quality, and that if they patronized the tank wagon it would be only a matter of a few days before our tank wagon would be driving over the country serving the farmers and serving the merchants in the town; that consequently——

Q. What else did he say about the quality of your oil?—A. He said it was a very inferior quality; that it would char the wicks and smoke up the chimneys, and give general dissatisfaction.

Q. Anything about the odor of it?—A. Yes, sir. He said it had a very offensive odor.

Q. What was the result on your trade there of those statements made by Mr. Metzel? What effect did those statements have on your business there—the sale of your oil?—A. It simply kept us from selling any tank-wagon oil there, or from selling any oil at all.

Q. What means did you adopt to meet these charges of Mr. Metzel?—A. I went direct to the consumers, sir, and talked to them, showed them that the oil was all right, would burn perfectly and give perfect satisfaction, and that it would not char the wicks and would not smoke the chimneys. I cleaned their lamps and saw that the lamp was in good working condition before I left the house.

Q. Did you give them a coupon in such case?—A. Yes, sir; I gave them a coupon.

Q. Good for a gallon of oil?—A. Good for a gallon of oil.

Q. Why did you do that?—A. Simply as a working sample, at least a sample to show to them that our oil was just as good as the oil that they had been buying.

9406 Q. So as to induce them to make a trial of your oil?—A. Yes, sir; to induce them to make a trial of it.

Q. And to find out for themselves what the quality was?—A. Yes, sir.

Q. And you did not give more than one gallon coupon to each consumer, as I understand it?—A. No, sir.

Q. Did you ever give two or five or ten gallons of oil to any one consumer there?—A. No, sir.

Q. Never gave them more than a coupon for one gallon?—A. Yes, sir.

Q. And only for the purpose that you have mentioned?—A. Yes, sir.

Q. And only on one occasion, as I understand you?—A. Only on one occasion.

Q. What became of those four tanks which you say you loaned to those storekeepers?—A. I packed them up and shipped them back to Westminster, Maryland.

Q. To what?—A. To the Standard Oil Company's place at Westminster, Maryland.

Q. Mr. Metzel said further that the people (meaning, I suppose, the trade or the consumers at that place), after getting one gallon of the Standard oil, did not want any more of it, that it was not good enough. What was the fact as to whether you subsequently sold any oil there or not?—A. We continued to sell the trade, sir, after they had made a trial of the oil, and demonstrated to their entire satisfaction that the oil was all right.

9407 Q. At the time you are talking about what company was it which was selling oil in that field in competition with you, at that place?—A. The Red "C" Oil Company, sir.

Q. Was that Mr. Metzel's company?—A. Yes, sir.

Q. He was the salesman of the Red "C" Company, was he?—A. Yes, sir.

Q. What kinds of oil was the Red "C" Company selling there?—A. White "C" and Red "C."

Q. Those were special brands of oil, were they?—A. Yes, sir.

Q. Or so claimed by the company to be?—A. Yes, sir.

Q. What you call fancy brands, were they not?—A. Yes, sir.

Q. What price were they getting for the Red "C?"—A. For the Red "C" they were getting 12 cents, and for the White "C" they were getting 10 cents.

Q. What was your tank-wagon price for Water White oil?—A. 8 cents.

Q. Now, at that time were you present, and did you hear Mr. Metzel make a statement in regard to his Red "C" oil, that is, in regard to the Red "C" oil sold by him as salesman of the Red "C" Oil Company?—A. Yes, sir.

Q. What was the statement, and to whom was it made? Give the conversation.—A. The statement was made to Mr. Barnes, of the firm of Barnes & Snader. I happened to be in the town the same day Mr. Metzel was there.

Q. Just a moment. Where were Barnes & Snader?—A. At New Windsor.

Q. And what was their business?—A. General store.

9408 Q. And where did the conversation take place?—A. In their store.

Q. And were you present?—A. Yes, sir.

Q. This was a conversation that took place between Mr. Barnes and Mr. Metzel, was it?—A. Yes, sir.

Q. State the conversation.—A. Mr. Metzel was standing talking to Mr. Barnes when I walked in, and Mr. Barnes did not know me. So I stood back until Mr. Metzel had finished his conversation before I introduced myself. Mr. Barnes said to him, "I understand the Standard has got a new tank-wagon man here in this territory." He said, "He is in town to-day." Metzel said, "Yes," and he said, "By the way, Barnes, you are not going to cut us off, are you?" Barnes said, "No; I don't think I will." "Well," he said, "you know our red oil is the best oil that there is on the market. It is a natural product, just as it comes out of the ground, and it will give you perfect satisfaction, and it is attractive to the trade. In glass lamps it looks nicer, and it gives a good light, and you can hold business on red oil that you would not be able to hold on the Standard Oil Company's common oil."

Q. Was that all?—A. Yes, sir.

Q. What followed that?—A. After he went out of the store I went up and introduced myself to Mr. Barnes, told him I was there in th

interests of the tank-wagon service, and made the proposition to him that I have stated before.

Q. Did you make any reference to this statement of Mr. Metzel at all?—A. Yes, sir; I told him that it was absolutely not true, that red oil was made from a root being put into the oil.

9409 Q. Into what oil?—A. Into white oil.

Q. Into ordinary white oil?—A. Into ordinary white oil; yes, sir, and that there was absolutely no truth in his statement at all; that if he wanted me to make a demonstration, I would send to Baltimore and get some root, and have one of the men come out, or do it myself, put it into white oil right in his store, and show him that I could color it and make it of a good red color.

Q. Did you talk with other storekeepers in New Windsor on that same subject?—A. Yes, sir.

Q. Subsequently?—A. Yes, sir; I talked to all of them.

Q. Did you find that the other storekeepers there had heard the same statement?—A. Yes, sir.

Q. About this being a natural product?—A. Yes, sir; the same statement had been made to all the merchants in the town.

Q. Did you make the same explanation to them, or contradiction, that you have just now stated here?—A. Yes, sir.

Q. And did you subsequently get any trade there in New Windsor?—A. Yes, sir; I got the trade of four merchants there. There were only five in the town.

Q. And they were people who had previously been paying this high price, 12 cents, for this red oil, were they?—A. Yes, sir.

Cross-examination by Mr. KELLOGG:

Q. Are the merchants of New Windsor, where this statement was made, ordinarily intelligent men?—A. Yes, sir.

Q. And you understood Mr. Metzel to say that this red oil came out of the ground in its refined condition, and colored red?—A. Yes, sir.

9410 Q. And that he made that statement to intelligent men of New Windsor?—A. Yes, sir; he positively did.

Q. And you state that on your oath?—A. Yes, sir; I do.

Mr. CRAWFORD. You did not say that it came out as refined oil, did you?

WITNESS. No, sir; not as refined oil. He said that it came out colored, that it was a colored oil, a natural product, just as it came from the ground. That was my testimony.

Q. That is, it came out of the ground colored red? Is that correct?—A. That is what I would infer from his remarks.

Q. That is what you would infer?—A. That is what I inferred; yes, sir.

Q. That is your inference simply, isn't it? Did he say any such thing?—A. I don't understand your question, sir.

Q. Did he say any such thing, that it came out of the ground colored red?—A. He said that it was a natural product.

Q. Well, petroleum is a natural product, isn't it?

Mr. CRAWFORD. Now, wait a minute. Let us have the rest of it. What else did he say?

WITNESS. He said it was a natural product, just as it came out of the ground.

Q. It was not adulterated, I suppose; it was a natural product? Do you intend to convey the impression here by your testimony that Mr. Metzel said that oil came out of the ground colored red, in its refined condition?—A. I simply mean, sir, to make the statement that I have made here.

Q. Is that what you mean?—A. That is what I mean.

9411 Q. That it came out of the ground colored red, and in its refined condition, and had never been refined?—A. The testimony that I gave here, sir, that the stenographer has, is exactly the remarks that he made.

Q. What did you understand that to mean?—A. I understood it to mean that the oil came out of the ground red.

Q. You did?—A. Yes, sir.

Q. But he did not say so.—A. He made the statement, sir, that I have just said.

Q. And you placed on it the inference that he meant that it came out of the ground colored red. That was your inference, was it?—A. That was my inference; yes.

Q. Do you understand that there are any merchants in any town in this country far enough removed from civilization to believe a statement of that kind, if he meant that it came out of the ground colored red and had not been refined at all; do you believe that?—A. My personal opinion, sir, of course, is different from the statement that he made.

Q. You do not believe that it did come out of the ground colored red?—A. I do not believe it came out of the ground colored red; of course not.

Q. That is a great credit to your intelligence.

Mr. CRAWFORD. You know that it did not come out of the ground colored red?

WITNESS. Yes; I positively know it.

Q. And everybody else knows it, don't they?—A. That I could not answer.

9412 Q. And he did not say it, did he?—A. He made the statement that I have made.

Q. Did he say it came out of the ground colored red?—A. He made the statement I have given here.

Q. Will you answer that or will you not?—A. He said that it was a natural product.

Q. That is all he said, isn't it?—A. No, sir.

Q. What else?—A. He said just exactly what I have said here.

Q. What was it?—A. That it was a natural product, just as it comes from the ground.

Q. As it came from the ground it was a natural product, wasn't it?—A. Of course, it would be a natural product, sir.

Q. All petroleum is a natural product, isn't it?—A. Yes, sir.

Q. Now, Mr. Metzel's statement to the merchants that your oil was of an inferior quality, and that you would sell to the country trade in your tank wagons, you simply got from the merchants, didn't you? You did not hear him make those statements?—A. I got it from the merchants.

Q. They told you that, didn't they?—A. Yes, sir. Those statements were from the merchants.

Q. He was selling there at 10 or 12 cents, was he?—A. Yes, sir.

Q. And you went in and offered to sell at 8 cents, did you?—A. Yes, sir; our tank-wagon price there was 8 cents.

Q. You had not had any price there before, had you?—A. We previously——

Q. You went in there at that time, didn't you?—A. No, sir.

9413 The tank wagon had been started there previous to my going there.

Q. How long?—A. Six months, sir.

Q. But Metzel was there before that, wasn't he, selling?—A. Yes, sir.

Q. And you went in and started an 8-cent price, did you?—A. I did not start the 8-cent price.

Q. Well, your tank wagon did, didn't it?—A. Our tank wagon did, yes.

Q. And the price there was 10 and 12 cents, was it not?—A. Yes, sir.

Redirect examination by Mr. CRAWFORD:

Q. The price was 10 and 12 for Red "C" and White "C" oils?—A. Yes, sir.

Q. And they were sold by Mr. Metzel as fancy brands of oil?—A. Yes, sir.

Q. Fancy brands are always put forth at a higher price than the ordinary product, are they not?—A. Yes, sir.

Q. Now, what were the other towns in the neighborhood of New Windsor? Mention some of the other towns in the neighborhood of New Windson where the Standard sold oil from tank wagons?—A. Westminster, Union Bridge, and Uniontown.

Q. What was the tank-wagon price at those places?—A. 8 cents.

Q. And that had been so for a long time before this, had it not?—A. Yes, sir.

Q. Where was New Windsor supplied from?—A. Union Bridge.

9414 Q. Now, you said you talked with a number of these storekeepers in regard to this matter of the red oil. What did you find these storekeepers believed in regard to the origin of the red oil before you made your explanation to them?—A. Will you please repeat that again?

(The question was read by the reporter.)

A. Mr. Barnes believed Mr. Metzel's statement.

Q. What did Mr. Barnes say about Mr. Metzel's statement?—A. He said that he believed it to be true until I told him that I could make a demonstration in his store and show it to him.

Q. Did he say nothing more than just those words, that he believed it to be true?—A. Yes, sir; he said he had confidence in Mr. Metzel, and he thought he was telling him the truth.

Q. Did he say what he believed to be true?—A. Yes; he said he believed that it came out of the ground red.

Q. What did you find that the other storekeepers there believed upon that point?—A. They did not believe it, sir.

Q. They did not believe it?—A. No, sir.

Q. You mean before you spoke to them?—A. At the time I spoke to them, sir, they did not believe it at all. I found in talking with them that they knew that the oil was colored.

9415 WILLIAM S. MOORE, called on behalf of the defendants, being duly sworn, testified as follows:

Direct examination by Mr. CRAWFORD:

Q. Mr. Moore, where do you live, and what is your business?—A. I live in Huntington, West Virginia, and am a traveling salesman for the Standard Oil Company.

Q. Attached to what office?—A. The Charlestown, West Virginia, office.

Q. How long have you been a salesman there?—A. Five years the first day of last April, or April 1, 1903.

Q. In the course of your sales do you make the prices, or do you sell at prices which are given to you?—A. I sell at the prices which are given to me.

Q. Have you any discretion to make any changes in them?—A. No, sir.

Q. In refined or gasoline?—A. No, sir.

Q. Who is your principal competitor there?—A. Charles H. Moore, of Cincinnati.

Q. The Charles H. Moore Oil Company, isn't it?—A. Yes, sir; of Cincinnati.

Q. Are you acquainted with any instance where the Charles H. Moore Company has cut your price—cut the price of the Standard Oil Company on refined oil or gasoline?—A. Yes, sir.

Q. Will you mention such as you recall?—A. Why, I can't mention the date. I can mention the sales and the company which buys oil from them.

9416 Q. Mention such as come to your mind, and I will ask you about others.—A. The Standard Grocery Company, at Williamson, West Virginia.

Q. When was that, if you know, and what were the circumstances?—A. They simply go in there with an oil that beats my price anywhere from half a cent to a cent and a quarter, and guarantee it to be as good oil as the kind that we market—Water White.

Q. Has this been on more than one occasion, with different dealers?—A. Yes, sir.

Q. Do you know a concern named Vaughn, at Roderfield?—A. The Vaughn Coal & Coke Company, at Roderfield.

Q. Roderfield, West Virginia, is it?—A. Yes, sir.

Q. Were they formerly customers of yours?—A. They were; yes, sir.

Q. Do you know anything about any price cutting in connection with them?—A. That was the Paragon Oil Company that cut the price.

Q. What were the facts?—A. We market Water White down there as our leader.

Q. At what price?—A. Our present price is 11 cents f. o. b. Huntington.

Q. What was the price in 1906; do you recollect?—A. I could not say.

Q. At any rate, whatever the price was, go on and state the facts about it.—A. The Paragon Oil Company man came along there
9417 with an oil that they call Black Swan, and he will sell it from any place from——

Mr. KELLOGG. Not what he will do, but what he did do.

WITNESS. All right. He sold it for 10 cents, if I remember right, delivered bulk, against my Water White price of 11 cents f. o. b. Huntington, with a 38-cent freight rate.

Q. Did that result in a net price that was lower than your price?—A. Yes, sir.

Q. Do you know a concern named Nichol & Young?—A. At Nolan, West Virginia. They were at one time in business there.

Q. When was that?—A. That was in 1906. They went out of business right away after 1906.

Q. Go on and tell the facts.—A. They buy the Black Swan Headlight from the Paragon Refining Company at possibly a cent lower than I could make it to them under any consideration.

Q. In 1906 was there a case connected with refined oil? Do you know anything about that—where they bought refined oil for less than your price?—A. Yes, sir.

Q. State the facts. Whom did they buy it from?—A. They bought it from the Paragon refining Company.

Q. What did they pay for it?—A. As nearly as I can remember, they paid 8½ cents f. o. b. Williamson.

Q. Was that less than your price?—A. Yes, sir.

Q. Whether you have the exact price or not, what do you recollect as to whether the price at which that was sold to them
9418 was less than the Standard's price at the same place and the same time?—A. How much difference?

Q. No; you recollect that it was less than the Standard's price?—A. Yes, sir.

Q. At the same place and the same time?—A. Yes, sir.

Q. Now, do you know the city of Huntington?—A. I do.

Q. There are furniture factories there, are there not?—A. Yes, sir.

Q. Do you remember their names?—A. Nichols & Kendall Furniture Company, Huntington Chair Company, Penn Furniture Company.

Q. Were they formerly your customers?—A. They were.

Q. Did you lose them?—A. I did.

Q. Under what circumstances?—A. On the price of naphtha, which Charles H. Moore contracted for at 9 cents f. o. b. Huntington, against my 11½-cent price. I lost the business because the Standard would not meet this price.

Q. That is, you were instructed not to reduce your price?—A. I was.

Q. And you did not reduce it?—A. I did not.

Q. How much did those customers buy per year?—A. Well, it is just an estimate. They will buy 50, 60, or 75 barrels, according to how good their furniture business is. They use it in painting their furniture.

Q. Do those figures indicate about what you had sold to them?—A. Yes, sir; approximately so.

9419 Cross examination by Mr. KELLOGG:

Q. Where is Charles H. Moore & Company's establishment situated?—A. Cincinnati, Ohio.

Q. They sold to these Huntington concerns for 9 cents f. o. b. where?—A. Huntington.

Q. Delivered at Huntington?—A. Yes, sir.

Q. And at what price?—A. 11½.

Q. 11½ delivered at Huntington?—A. Yes, sir.

Q. Do you know anything about the grade of naphtha they sold?—A. I do not.

Q. Know nothing about the quality?—A. No, sir.

Q. Nothing whatever. All you know about that is what the merchants told you, I suppose?—A. They are not merchants. They are manufacturers.

Q. Well, manufacturers?—A. Yes, sir.

Mr. CRAWFORD. Did you see the tickets.

WITNESS: I saw the contracts, yes, sir; a yearly contract.

Q. Now, this was what year?—A. The contracts will end along about January 1st, 1909, including this year.

Q. Now, the Paragan Oil Company you say sold the Vaughn Coal & Coke Company?—A. Yes, sir.

Q. What did they call it?—A. Black Swan.

Q. Was the Paragon Oil Company a Standard Oil concern?—A. I don't know, sir.

Q. Do you know anything about the quality of that oil?—A. It does not give them as good satisfaction, so the merchants say, as the Water White.

9420 Q. They sold it at 10 cents, did they?—A. Delivered bulk, yes, sir.

Q. Delivered bulk, what do you mean by that?—A. They ship it to them in barrels, and charge them $2 for the barrel and give them a credit of $2 when they return the barrel. That makes it stand the merchants bulk.

Q. They have to haul it from the station, do they not, to their stores?—A. They do not. The store is right on the railroad track.

Q. All of their stores?—A. There is only one.

Q. They unload it, do they, right into their warehouse?—A. They do.

Q. Your price for Water White was delivered in tank wagons, was it?—A. We have no tank wagon down there.

Q. Your price was 11 cents for Water White oil?—A. F. o. b. Huntington.

Q. And Black Swan is 10 cents?—A. Their price delivered; yes, sir.

Q. You consider yours a better grade than theirs, don't you?—A. Yes, sir; we do.

Q. Worth more money?—A. Worth more money.

Q. Did you sell yours in carload lots?—A. No, sir.

Q. Did the Black Swan sell theirs?—A. No, sir.

9421 RUSSELL R. MIDDLESWART, called on behalf of the defendants, being duly sworn, testified as follows:

Direct examination by Mr. CRAWFORD:

Q. You are a salesman for the Standard Oil Company, aren't you?—A. Yes, sir.

Q. Connected with the Charlestown, West Virginia, office?—A. Yes, sir.

Q. Do you sell at prices which you make, or prices which are given to you?—A. Prices which are given me.

Q. Have you any discretion to depart from those prices?—A. No, sir.

Q. And you do not depart from them?—A. I do not.

Q. You sell at the prices which are given to you?—A. Yes, sir.

Q. If you find that the prices are cut, what do you do? Do you report the fact?—A. Why, that is all——

Q. If you find that prices are cut by the competitor, if such a thing should happen, do you report the fact?—A. Yes, sir.

Q. In any such instance where you have reported a cut by your competitor have you been authorized to reduce your price lower than that of the competitor?—A. No, sir; I never have.

Q. Have you in any such case reduced your price lower than that of the competitor?—A. No, sir.

Q. Have you in any case, by instruction or otherwise, cut the price of the competitor—that is to say, sold your oil at a price below that which the competitor was selling at?—A. No, sir.

9422 Q. Have there been any instances to your knowledge where your competitors in that field have cut your prices?—A. Yes, sir.

Q. What is your principal competitor there?—A. At the present time it is the Charles H. Moore Oil Company.

Q. Of what place?—A. Of Cincinnati, Ohio.

Q. Who are some of the other competitors there, in the same field, in your field there?—A. In the refined department, do you mean?

Q. In the refined department. I am talking about refined oil and gasoline.—A. The Cincinnati Oil Works and Charles H. Moore.

Q. How about Harbaugh & Company?—A. Harbaugh & Company are competitors, but not in the refined oil.

Q. Can you mention any instances where Charles H. Moore & Company have cut your prices?—A. Yes, sir.

Q. Well, do so.—A. They cut our tank-wagon price at several places along the route that we were selling: At Peerless, the Peerless Coal & Coke Company; at Vivian, at the Bottom Creek C. & C. Company and the Pulaski Iron Company.

Q. Where are those concerns located?—A. They are located in McDowell County, West Virginia.

Q. Had they previously been customers of yours?—A. Yes, sir.

Q. After the prices were cut by the Moore Company, did you lose their trade?—A. Yes, sir; we lost it for a while.

Q. Do you recollect the prices at which you had been selling and at which the Moore Company sold to them?—A. No, sir; I don't think I can. I can tell you that their prices ranged from half a cent to a cent lower than ours.

9423 Q. About when was this?—A. That was in 1896, I think.

Mr. KELLOGG. You mean 1906?

WITNESS. 1906; yes, sir.

Q. Do you know a concern called the Crystal Refining Company?—A. Yes, sir.

Q. Where are they located?—A. They were located in Cleveland, Ohio.

Q. Have you had any experiences with them in the matter of price cutting?—A. Yes, sir.

Q. Tell us.—A. The Blackwood Coal & Coke Company, at Blackwood, Virginia. They sold them refined oil at a less price than our tank-wagon price, delivered from Norton.

Q. Can you state what your tank-wagon price was?—A. I don't remember it now.

Q. How did they deliver theirs?—A. They delivered it in barrels.

Q. Under the usual arrangement, I suppose, charging for the barrels and then crediting them with the price of the barrels when they were returned?—A. Yes, sir.

Q. What was the fact in regard to the net price to the customer as compared to yours?—A. It made it considerably lower than our tank-wagon price.

Q. How much lower?—A. I don't remember the exact figures now, but I know we lost the business on that reason.

Q. About how much lower?—A. I think about a little over—a cent and a quarter, if I remember right; I won't be positive that that is correct.

9424 Q. At any rate, enough lower so that the customer bought of them in preference to you, and you lost the business?—A. Yes, sir.

Q. You had previously sold this concern, had you?—A. Yes, sir.

Q. Do you know a concern called the Black Swan Oil Company, of Cincinnati?—A. The Paragon Refining Company sells Black Swan oil; yes, sir.

Q. Do you know any instance where they sold oil to one of your customers?—A. Yes, sir.

Q. Well, state that.—A. They sold it to the Roanoke Coal & Coke Company.

Q. Where are they situated?—A. In McDowell County, West Virginia.

Q. At what place?—A. The post-office is Worth.

Q. When was it?—A. In 1905 or '6; I don't remember which.

Q. What were the circumstances?—A. We had previous to this time been supplying the Roanoke Coal & Coke Company with oil delivered from the tank wagon. These people came in there and cut the price about a cent a gallon, and we lost their business for quite a while. The first shipment of oil that these people put in gave very good satisfaction, and the subsequent shipments that came in did not, and they cut them out and came back to the tank wagon at a higher price than they were paying the Paragon Refining Company.

Q. Now, in regard to the original transaction, how much did you say they sold? They sold the Roanoke Company how

9425 much?—A. They sold them at one time, I know, ten barrels.

Q. Of refined oil?—A. Yes, sir.

Q. At a price which, after deducting the barrel, was lower than yours, was it?—A. Yes, sir; I think they made a charge for the barrel and credited them with the barrel, and also allowed them 25 cents per barrel for unloading the oil, or putting the oil in their tank. It made a net price lower than ours.

Q. It made a net price lower than yours, did it?—A. Yes, sir.

Q. And on account of that cut the customer bought from them?—A. Yes, sir.

Q. And you lost their trade for the time being?—A. Yes, sir.

Q. That was the Paragon Refining Company, was it?—A. Yes, sir.

Mr. CAMPBELL. Do you know that the Paragon Refining Company is Mr. Potts's company, of Toledo, Ohio?

WITNESS. No, sir; I do not.

Cross-examination by Mr. KELLOGG:

Q. Do you know the Standard Oil?—A. Slightly; yes, sir.

Q. What?—A. Yes, sir.

Q. Do you think the Paragon is a Standard Oil concern?—A. No, sir.

Mr. CRAWFORD. He did not say so at all.

Mr. KELLOGG. I thought he did.

WITNESS. I misunderstood his question if I did.

9426 Q. The Paragon Refining Company is situated where?—A. In Cincinnati.

Q. It sells Black Swan oil, does it?—A. Yes, sir.

Q. Is it as good a grade as you were selling?—A. No, sir.

Q. It is not worth as much?—A. No, sir.

Q. Then they ought to sell it cheaper, oughtn't they?—A. Yes, sir.

Redirect examination by Mr. CRAWFORD:

Q. How much difference is there usually between Black Swan and your Water White oil? How much difference do you think there ought to be? Mr. Kellogg has asked you whether you think they ought to sell it cheaper. How much difference do you think there ought to be in the price?—A. That is pretty hard to say.

By Mr. CAMPBELL:

Q. Do you know whether or not the Paragon does business at Toledo?—A. Yes, sir; I think they shipped some oil from Toledo that came in there.

Q. Some of the oil that came into your field was shipped from Toledo?—A. Yes, sir.

Recross-examination by Mr. KELLOGG:

Q. It was the Blackwood concern, of Blackwood, Virginia, that the Crystal Refining Company sold to?—A. Yes, sir.

Q. You had been selling them from tank wagon, hadn't you?—A. Yes, sir.

9427 Q. At what price?—A. I don't remember.

Q. The Crystal Refining Company sold to Backwood in barrels?—A. Yes, sir.

Q. A carload?—A. It was shipped in mixed cars.

Q. At what price?—A. I don't remember.

Q. Then you don't know what the difference in price was?—A. No, sir; I don't know what the difference in price was there.

Q. Now, ordinarily, for the same grade of oil, the merchant will pay a little more if it is delivered to him in tank wagon than he will if he takes it in barrels, won't he?—A. No, sir; not always.

Q. Ordinarily, I mean; he would rather have it from the tank wagon?—A. Ordinarily, he would rather have tank-wagon oil.

Q. It cost you from a cent to a cent and a half a gallon to deliver oil in tank wagon, does it not, the expense?—A. I don't know what the cost is.

Q. Don't you know that the average expense of selling oil in tank wagon is that?—A. No, sir.

Q. Ordinarily, then, the same grade of oil will not sell as readily from barrels as from tank wagons?—A. No, sir.

Q. And it is true that there is a difference of from half a cent to a cent a gallon, isn't there?—A. Yes, sir; there is more difference than that between tank-wagon and barrel oil.

Q. In other words, the merchant can afford to pay from half a cent to a cent a gallon more, delivered to him from the tank wagon, than he can taking it in barrels?—Isn't that true?—A. No, sir.

9428 Q. Why not?—A. Because he gets a credit back for his barrel.

Q. Well, I know, but he also has the risk of leakage and the trouble and expense of taking it from the barrels. It is much cleaner to handle it from tank wagons. There are many advantages, are there not?—A. Yes, sir.

Q. Then he will pay more, will he not?—A. Well, ordinarily he will pay a little more, but not much.

Redirect examination by Mr. CRAWFORD:

Q. You don't mean to say that he will pay a cent and a half more, do you?—A. No, sir; I didn't mean to leave that impression.

Q. You did not mean to say that?—A. I did not.

Mr. CAMPBELL. What did you mean by saying that there was a differential of from a cent to a cent and a half?

Mr. KELLOGG. From half a cent to a cent, he said.

Q. What did you mean by that?—A. Why, if he could get the barreled oil at a price not over a half cent difference, or three-quarters, from the tank-wagon oil, and that would pay him for his trouble in buying it in barrels, he might buy it in barrels.

(An adjournment was here taken until Monday, September 21, 1908, at 10.30 o'clock a. m.)

9429 ROOM 715, CUSTOM-HOUSE, NEW YORK CITY,
Monday, September 21, 1908—10.30 a. m.

The hearing was resumed before the special examiner, Hon. Franklin Ferriss, at the above time and place.

Present on behalf of the petitioner, Mr. Frank B. Kellogg, Mr. Charles B. Morrison, Mr. J. Harwood Graves; on behalf of the defendants, Mr. Moritz Rosenthal, Mr. F. L. Crawford, Mr. Douglas Campbell, Mr. W. Cleveland Runyon.

EDGAR SHIMP, called on behalf of defendants, being duly sworn, testified as follows:

Direct examination by Mr. ROSENTHAL:

Q. What is your full name, please?—A. Edgar Shimp.

Q. Where do you live?—A. Alliance, Ohio.

Q. What is your business?—A. Freight and transfer agent of the Pennsylvania Company.

Q. How long have you been?—A. About twenty-one years, I think, at a rough guess.

Q. Stationed where?—A. At Alliance, Ohio.

Q. Do you know a man by the name of C. J. Castle?—A. I do not.

Q. C. J. Castle testified as a witness in this case at Cleveland, on behalf of the Government, that the agent of the Pennsylvania Railroad Company at Alliance, Ohio, furnished reports of com-

9430 petitors' shipments in and out of Alliance, Ohio, to the agent of the Standard at that point, for the furnishing of which reports he, the railroad agent, received free oil. Now, you have been

there how long?—A. I think it is since February, 1887—my recollection—about twenty-one years.

Q. You have been agent there since then?—A. Yes, sir.

Q. During that time did you ever furnish reports of competitors' shipments to any agent of the Standard Oil Company?—A. I did not.

Q. Or give him any information or advice of any kind concerning competitors' shipments?—A. None whatever.

Q. Did you ever receive any free oil from the Standard Oil Company?—A. Not one drop.

Q. How large a place is Alliance?—A. About 15,000.

Cross-examination by Mr. KELLOGG:

Q. You have charge of the freight office, have you?—A. Freight and transfer station there; yes, sir.

Q. How many railroads run into Alliance?—A. There are three divisions of the C. & P. and one branch of the Lake Shore.

Q. Three divisions of the——A. Of the Pennsylvania lines and one branch of the Lake Shore.

Q. You are the joint agent of all the Pennsylvania lines?—A. Yes, sir.

Q. How many assistants did you have during this time?—A. I had, possibly, outside and in, possibly one hundred to one hundred and twenty-five men.

9431 Q. You had 100 to 125 men?—A. Yes.

Q. In your office?

Mr. ROSENTHAL. No; he said outside.

WITNESS. Inside and out—that is, truckmen, laborers, and office men.

Q. Of the men who had charge of the books, keeping track of the waybills and receipts and outshipment of freight, how many men did you have?—A. Possibly, I think, two in the house at that time to check the freight in and out, and I think four or five in the office.

Q. Three to five in the office?—A. I don't recall just exactly what.

Q. Have these men been working for you all the time or have you had various changes?—A. Some of them are dead now, and I think there is only one of them that has been with me.

Q. These men had access to the waybills of the incoming freight and made out the waybills of the outgoing freight, did they?—A. Yes; they had access to them. There were only the two men that did the billing outbound. They had access to those books.

Q. You don't know whether they furnished any information or not?—A. I am not positive. I know that our rules were against it, and I repeatedly called all the boys' attention to the rules on the subject. I am not——

Q. Rules against furnishing any information of shipments?—A. Any outside information; yes, sir.

Q. That is a rule of the Pennsylvania Railroad, is it?—A. Yes, sir.

9432 WILLIAM R. HANSON, called on behalf of the defendants, being duly sworn, testified as follows:

Direct examination by Mr. ROSENTHAL:

Q. Your full name, please?—A. William Ralph Hanson.

Q. Where do you live?—A. Massillon, Ohio.

Q. How large a town is that?—A. Possibly 14,000 or 15,000, somewhere in that neighborhood.

Q. What is your business?—A. My business at present is a shoe merchant.

Q. How long have you been engaged in that business?—A. About six weeks.

Q. What was your business before that?—A. About two years and a half before that I was engaged in the undertaking business.

Q. Were you ever in the railroad business?—A. Yes, sir.

Q. Connected with what railroad company?—A. The Wheeling & Lake Erie Railroad, at present a part of the Wabash system.

Q. Where you employed by the Wheeling & Lake Erie?—A. As agent at Massillon, Ohio.

Q. Beginning at what date?—A. From August 1, 1896, until March, 1904, I was employed as agent. (Witness referring to a memorandum.)

Q. From 1896 to 1904 as agent?—A. Yes, sir.

9433 Q. And previous to your employment as agent——A. I was chief clerk, operator, and agent at several stations along the line, employed with the company since 1885, up to 1904.

Q. From 1889 to 1895 were you chief clerk in the freight office at Massillon?—A. I was chief clerk from 1889 until April, 1895. I was chief clerk at Massillon. Then I resigned and was appointed——

Q. Then you went for a few months with the B. & O.?—A. I went as chief clerk with the B. & O. from April, 1895, until some time in July, 1896.

Q. As chief clerk in the B. & O. freight office at Massillon, Ohio?—A. For the B. & O.

Q. And then you came back to the Wheeling & Lake Erie as agent?—A. As agent.

Q. And remained there as agent until 1904?—A. Until 1904; yes, sir.

Q. That is correct, is it?—A. Yes, sir.

Q. Now, do you know S. K. Brusman, the agent of the Standard Oil Company at Massillon, Ohio?—A. I do.

Q. How long have you known him?—A. I have known him for a good many years.

Q. During practically all the years you have covered here in your testimony?—A. Yes; I have known him from the time that I was clerk at the Wheeling & Lake Erie and agent. I could not just say how many years, but quite a long time, anyhow.

Q. C. J. Castle, a witness for the Government at Cleveland, testified that the agent of the Standard Oil Company at Massillon, Ohio; that is, S. K. Brusman, received reports of competitors' ship-
9434 ments from the agent of the Wheeling & Lake Erie Railroad Company, and that Brusman gave the agent free oil in return for the receipt of such competitive reports. What do you say as to the truth of that statement?—A. That is a lie.

Q. He also testified that once or twice he himself had been in Massillon and had seen the agent of the Wheeling & Lake Erie and gotten information from him. What do you say as to the truth of that?—A. He lies. I never furnished him with any information, and I do not know the man.

Q. Did you ever, during your long railroad experience, as chief clerk in the freight office and as agent, covering a period from 1885 to 1904, furnish to any agent or representative of the Standard Oil Company information of competitors' shipments?—A. I did not.

Q. Or did you ever receive any free oil or any other gift from the Standard Oil Company or any of its agents or representatives?—A. I did not.

Q. Did you ever give reports during those twenty-odd years to anyone concerning shipments made by the Freedom Oil Company?—A. I did not. I was never asked to give a report like that.

Q. Or ever permit anyone to examine any of the records of the railroad company for that purpose or any other purpose——A. No, sir.

Q. In connection with competitive shipments?—A. No, sir.

Cross-examination by Mr. KELLOGG:

Q. How many clerks did you have during the time you were the agent of the Wheeling & Lake Erie road?—A. 2.

9435 Q. What was their business?—A. One was receiving clerk and one forwarding clerk.

Q. The receiving clerk had charge of——A. Inbound freight.

Q. Had access to the waybills and records?—A. Yes, sir.

Q. And the forwarding clerk made out——A. The waybills for outbound freight.

Q. Now, those waybills named——

Mr. ROSENTHAL. For the purpose of saving the record, I object to any cross-examination concerning his clerical help, on the ground that it is not cross-examination of anything brought out upon the direct; and upon the further ground that the witness Castle's testimony was to the effect that the agent at both of these places was the source of the information, and not any clerk or other employee.

Q. What was the nature of those waybills? Did they show the consignor and consignee?—A. Yes, sir.

Q. The car number?—A. Yes, sir.

Q. The place of shipment and the place of receipt?—A. Well, they showed the place of shipment.

Q. The origin and destination of the shipment?—A. You mean the origin?

Q. Yes.—A. Of the shipment?

Q. Yes.—A. They generally do when the shipment originates on your own line; but oftentimes it originates quite a distance away, and it doesn't show anything but the transfer, doesn't give the origin of the shipment.

9436 Q. And they show the destination?—A. It shows the destination, certainly.

Q. And the car numbers?—A. Yes, sir.

Q. Now, you knew the Standard Oil Company agent, Mr. Brusman, pretty well?—A. I did.

Q. Was he around your station often?—A. No more than when he had shipments.

Q. Was he there often to receive shipments?—A. There were very little shipments that he received. It was mostly outbound business.

Q. Did you know any of the men working for him?—A. At the time?

Q. Yes, during those years.—A. Well, I don't know, let me see—he generally did that work himself, as far as I can recollect now.

Q. He generally did it himself?—A. Did it himself, as far as I can recollect now.

Q. Was he around the station a good deal?—A. No more than when he brought shipments there.

Q. Did he ever make inquiry at all about competitive shipments?—A. No, sir; he did not.

Q. Never looked around to see the barrels on the platform or the cars?—A. Not that I noticed.

Q. You don't know whether he did or not, though?—A. I don't.

Q. You don't remember of any of his assistants or men working for him?—A. I can't recollect now.

Q. He had men, hadn't he, that came to the station occasion-

9437 ally?—A. Well, I am not positive about that. I really could not say, but my recollection now, however, is that he did the most of that himself, if not all of it.

Q. Was there a considerable shipment of oil into that station by outside companies?—A. Do you mean inbound?

Q. Yes.—A. Not a great deal.

Q. There was some, was there?—A. Their business mostly came in via—do you mean the competitors?

Q. Yes.—A. The competitors' shipments all came in by the Pennsylvania lines.

Q. All of them? Didn't you receive any during that time?—A. Well, not any oil.

Q. You never received any oil during the years you were agent for independent oil companies?—A. Not for the Freedom Oil Company.

Q. Oh, not for the Freedom Oil Company?—A. Not for the Freedom Oil Company.

Q. They never made any shipments in over your line at all?—A. Made any shipments? Oh, yes; they made——

Q. I mean shipments into Alliance?—A. Shipments into Massillon?

Q. Into Massillon, yes.—A. Do I understand you to ask whether the Freedom Oil Company received any shipments over our line?

Q. Yes.—A. Not in carload lots.

Q. Did they in less than carload lots?—A. That is a hard matter to say just now. Oftentimes the stuff that was shipped out sometimes was returned. In that case I may have received some.

9438 Q. Their carload stuff came in over what road?—A. Over the Pennsylvania line. They had their house there for tankage, etc.

Q. Were there any other independent oil companies doing business there?—A. No, sir.

Q. Except the Freedom?—A. No, sir.

Q. During all the years you were there?—A. No, sir.

9439 S. K. BRUSMAN, called on behalf of the defendants, being duly sworn, testified as follows:

Direct examination by Mr. ROSENTHAL:

Q. What is your name?—A. S. K. Brusman.

Q. Where do you live?—A. Cleveland, Ohio.

Q. How long have you lived in Cleveland?—A. About four years.

Q. What is your business?—A. I am with the Municipal Traction Company there now.

Q. And have been for how long?—A. About a year—a little over a year.

Q. In what capacity are you employed there?—A. Conductor.

Q. What was your business before that?—A. I was in the oil business.

Q. Employed by whom?—A. The Columbia Refining Company.

Q. Were you ever in the employ of the Standard Oil Company?—A. Yes, sir.

Q. Where?—A. Massillon.

Q. When?—A. I think from 1890 to about 1901 or 1902.

Q. Do you know a man by the name of C. J. Castle?—A. Yes, sir.

Q. He testified at Cleveland as a witness for the Government, that you, S. K. Brusman, while you were agent for the Standard Oil Company at Massillon, Ohio, received reports of competitors' shipments from the agent of the Wheeling & Lake Erie Railroad Company. What do you say as to the truth or falsity of that statement?—A. I did not.

9440 Q. What do you mean by you did not?—A. I did not receive any.

Q. He also testified that that agent, in return for the information which he furnished the Standard Oil Company in that way, received free oil. What do you say as to that?—A. I did not furnish any free oil.

Q. Did you cause any free oil to be furnished?—A. No, sir.

Q. Or know of its being done?—A. No, sir.

Q. You were in general charge of the Standard's business at Massillon?—A. Well, I was the local agent there.

Q. That means that its other employees in that city were under you?—A. Yes, sir.

Q. Castle also testified that on one or two occasions he himself had been in Massillon and had seen the agent of the Wheeling & Lake Erie give this information of competitive shipments to you, Brusman. Is that true or false?—A. I don't know anything about it. I never saw anything of that kind.

Q. Did you ever get any such information from the agent of the Wheeling & Lake Erie, by word of mouth or otherwise?—A. No, sir.

Q. Or from any other railroad company there?—A. No, sir.

Q. Or any other railroad agent?—A. No, sir.

Q. Or employee?—A. No, sir.

Q. When were you in the employ of the Columbia Refining Company?—A. I was in the employ of them three different times.

Q. That company was Castle's company, was it not?—A. I believe he is the general manager of it.

Q. And largely interested in it?—A. Yes, sir; as far as I know, he is the general manager of it.

9441 Q. When were you in the employ of the Columbia?—A. Well, that is the same thing.

Q. I say when?—A. Oh, when? Well, about 1902 or 1903.

Q. And for how long?—A. About four years—four or five.

Q. In what capacity?—A. I was a kind of an all-round man, did most anything, did a little of everything.

Q. When Castle was under cross-examination in this case, he undertook to testify that the Columbia Refining Company never cut the Standard's prices. During the time that you were in the employ of that company, do you remember making one or more trips with tank wagons of the Columbia Refining Company through that northern Ohio territory?—A. Yes, sir.

Q. Where were those trips made?—A. Outside of Cleveland?

Q. Yes.—A. From Cleveland to Akron, through Macedonia, Hudson, and Cuyahoga Falls.

Q. Barberton?—A. Barberton.

Q. Do you remember about when it was that you made those trips for the Columbia?—A. I just made the one trip through to Akron. I think that was in about 1905 or 1906, now I don't know just exactly which.

Q. My notes show it to be July, 1905.—A. I suppose about 1905.

Q. Do you remember a grocer by the name of Edward Quigley at Barberton?—A. Yes, sir.

Q. Generally speaking, at what prices did you sell your oil and gasoline from your tank wagon on that trip for the Columbia, as compared with the Standard Oil Company's prices?—A. One-half cent under the market price.

9442 Q. Did you give any additional rebate than that one-half cent to any of those customers that you made or sold to on that trip?—A. Yes, sir.

Q. To whom?—A. Quigley, of Barberton.

Q. How much of a rebate did you give him for the Columbia, in addition to the half-cent cut?—A. Before I got through there it was a cent.

Q. How many trips of that kind did you make for the Columbia?—A. One trip to Akron.

Q. And acting under whose instructions?—A. The Columbia Refining Company's.

Q. Who was your superior officer there?—A. C. J. Castle.

Q. The same Castle that testified at Cleveland?—A. The same C. J. Castle; yes, sir.

Q. Why didn't you make more than the one trip?—A. That was all I was told to make through there, was that one trip.

Q. What were your instructions from Castle in connection with that trip that you made?—A. To establish a tank-wagon business in Akron.

Q. How about these other places that you traveled through?—A. To make that every so often, every week or ten days, to make that trip through Macedonia, Hudson, and Cuyahoga Falls.

Q. Was not your primary purpose, your principal purpose, to build up your trade at Akron?—A. It was to establish a tank-wagon station in Akron.

Q. And in connection with these smaller towns to which you
9443 only made the one trip, was not that one trip made, and this cut in prices made under instructions, for the purpose of demoralizing the Standard Oil Company's market in those towns?—A. That was my instructions, to cut a half cent under the market.

Q. You had not any business when you went there? You were creating business?—A. We had no business in those towns.

Q. And your method of getting business there was to make a half cent cut?—A. That was the understanding.

Q. Did you ever work for the Columbia Refining Company, Castle's company, at Cleveland?—A. Yes, sir.

Q. When?—A. From 1902 up to right through.

Q. Up to when—1905 or 1906?—A. Up to 1905, and then up to about 1906.

Q. Did you ever make any secret cut or give any secret rebate to special customers of the Columbia Refining Company at Cleveland, Ohio, for that company, or as agent for that company?—A. Yes, sir.

Q. Under whose instructions?—A. C. J. Castle's.

Q. How frequently did you do that?—A. Oh, I don't just remember how frequently.

Q. Was it a matter of frequent occurrence?—A. I made some concessions.

Cross-examination by Mr. KELLOGG:

Q. Who is Mr. J. W. Hoag?—A. He was the manager of the Cleveland station, I believe, of the Standard Oil Company.

Q. Was he your superior officer?—A. He was, sir.

9444 Q. While you were at Massillon?—A. He was at the latter part; yes, sir.

Q. You corresponded with him?—A. Yes, sir.

Q. During 1900?—A. No, sir—1900——

Q. Do you know his signature? Is that Mr. Hoag's signature? [Showing witness Petitioner's Exhibit 828.]—A. Yes, sir.

Q. Was that letter written to you?—A. No, sir.

Q. He never wrote you that letter? That is his signature, isn't it?—A. I don't recall ever seeing that letter.

Q. You don't recall it?—A. No, sir.

Q. Let me read it to you and see if it refreshes your memory.

"Mr. S. J. BRUSMAN,

"*Massillon, Ohio.*

"DEAR SIR: I wish you would advise me how the Freedom Oil Company received the five barrels of miner's lamp oil. Was it on the combination car No. 97; and if it was on that car, try and find out if they paid freight on it. As I understand it from your letter of the 6th, car No. 97 holds 54 barrels of refined oil and gasoline. Did they pay freight on more than 108 barrels of refined oil and gasoline? It seems to me that you could learn this of the local freight agent. If you can, let us know.

"Yours, truly, J. W. HOAG."

Do you deny having received that letter?

Mr. ROSENTHAL. Wait a minute. I object to that. That is Exhibit 828, already offered as an exhibit by the Government in this case, just now shown by the examiner to the witness. The witness has already testified that he has not any recollection of ever having received any such letter, and there can be no purpose in re-

9445 reading it into this record excepting to take up time.

Q. Did you not give that letter to Mr. Pool, sitting right there?—A. Not that I have any recollection of.

Q. Do you deny having given it to him?—A. I don't remember it, I tell you.

Q. Do you swear you did not give it to him?

Mr. ROSENTHAL. I submit that the witness has fully answered it when he says he has not any recollection of ever having received it or ever having given it to him.

Q. Do you know Mr. Pool?—A. I don't think I do.

Q. Did you make an affidavit and give it to Mr. Pool?—A. No, sir.

Q. You did not?—A. No, sir.

Q. You deny you ever made any affidavit?—A. I do.

Q. You deny you gave him that letter?—A. I don't remember that I ever did.

Q. Do you deny receiving it?—A. I don't remember of ever receiving the letter.

Mr. ROSENTHAL. Now, come on with the affidavit that you are bluffing about.

Q. You know Mr. Pool, don't you?—A. I don't know the gentleman.

Q. Did you ever see him?—A. It seems to me I have seen that man. I can't remember it, but it seems to me I have.

Q. Did you receive a good many letters from Mr. Hoag?—A. Yes, sir.

Q. Did you try to find out from the local freight agent about the shipment of this refined oil and gasoline mentioned in
9446 here?—A. No, sir; I did not.

Q. Did you ever try and find out from the agent any such shipments?—A. No, sir.

Q. You never inquired of the agent at Massillon in your life about a competitive shipment?—A. No, sir.

Q. Never did?—A. No, sir.

Q. Did you ever go there and take such shipments from the barrels or the cars?—A. I have taken shipments from goods on the platform there that I saw myself; yes, sir.

Q. Shipments of your competitors?—A. Yes, sir.

Q. Did you take the car numbers of shipments?—A. Well, I don't remember if I did. I don't think I did, because I don't think there was ever anything shipped there in carload lots that I remember. When I saw local barrels of oil there of course I would look to see who it was.

Q. Mr. Hoag instructed you to keep track of competitive shipments, didn't he?—A. Well, no doubt he did; yes, sir.

(Paper marked "Petitioner's Exhibit 921.")

Q. I show you Exhibit 921. Is that Mr. Hoag's signature?—A. Yes, sir; it looks like it.

Mr. ROSENTHAL. You mean Government Exhibit 921?

Mr. KELLOGG. Yes, sir.

Mr. ROSENTHAL. I want to enter an objection to the Government putting in any exhibits while we are making out our case. It is a part of their redirect and not a part of our defense. I object to any time being taken up by the Government putting in new testimony while we are presenting our defense.

9447 Q. That is Mr. Hoag's signature, is it?—A. It looks to me like his signature; yes, sir.

Q. Did you receive that letter?—A. Well, I don't know as I did. I suppose I did, because I received letters right along from Mr. Hoag. I have got no recollection of that, to know if I received just that one, but I got communications from him right along, from the head office. He was my superior officer.

Q. You think you received that letter, then?—A. I suppose probably I did. I would not swear that I did or I didn't, but I received letters right along, every day or every few days, from the Cleveland office while in Massillon.

Q. Asking you to make reports of competitive shipments?—A. Oh, no; but in a general way getting communications from there.

Mr. KELLOGG. I offer in evidence this letter, Petitioner's Exhibit 921.

Mr. ROSENTHAL. I object to it upon the ground that it is not a part of the cross-examination, upon the ground that it is immaterial, and upon the ground that in any event it is properly a part of the redirect, if it is at all admissible, and that it has not been properly identified. No witness has testified as yet that it was received.

Q. Among other things it says: "April 8, 1898, Mr. S. K. Brusman, Massillon, Ohio. Dear Sir: We have a feeling——"

Mr. ROSENTHAL. Do I understand, Mr. Kellogg, that you propose not only to offer letters here as exhibits, and have them marked
9448 as exhibits and incorporated into the record as exhibits, but also to read them into the record?

Mr. KELLOGG. No; I am just going to read one sentence which I want him to answer about. "We have a feeling that our agents are not making as full reports as they should of competitive oil going into their towns, or into towns in their care. We call your attention to this with the idea that you will try and do better in the future, and make your reports more complete and full." Did he call on you for such information as that?

Mr. ROSENTHAL. That is not a controverted issue in this case, Mr. Kellogg. Every agent, every general agent, every representative official of the Standard Oil Company who has testified in this case has testified that all of the agents were under instructions to do that. Now, what is the use of taking time on an issue of that kind here with a subordinate?

Q. Where did you get such information?—A. From Cleveland or from Mr. Hoag.

Q. I know, but where did you get the information as to competitive shipments?—A. Where I would see it, at the freight houses or on the platforms. When I would see anything come in that way, I would make a note of it. I would look after it myself.

Q. And then you reported it, did you?—A. I certainly would.

Q. Did you have regular blank forms for reporting such information?—A. I did not have; no, sir.

Q. Did the Standard Oil Company send you blank forms for reporting such information?—A. I don't think I ever had any forms for that.

9449 Q. I show you the Government's Exhibit 826 in evidence. Did you have such forms as that?—A. I don't think I ever had such forms as that in the office.

Q. When you went out to establish this tank-wagon station at Akron, you say you had instructions to call at these towns you mentioned and sell at one-half cent under the Standard's price?—A. Yes, sir.

Q. At what places were the Columbia Oil Company then selling oil?—A. Selling oil in what way do you mean? Oil any way?

Q. Yes.—A. Oh, they would sell wherever they could.

Q. Where were their stations established at that time?—A. They had but one station that I recollect of, in Cleveland.

Q. In Cleveland?—A. A tank-wagon station.

Q. Had been selling oil there for some time?—A. Yes, sir.

Q. And the Standard had been cutting their price, hadn't it?—A. Well, I don't know as to that.

Q. Don't you know that it had?—A. That it had been cutting his price? There was a market there in Cleveland.

Q. The Standard had been cutting the price of the Columbia, hadn't it, in Cleveland?—A. I don't quite catch what you are getting at.

Q. You say the Columbia had a station in Cleveland?—A. Yes, sir.

Q. And was selling the oil to retail merchants?—A. Yes, sir.

Q. The same as the Standard Oil Company was doing?—A. At the market price.

9450 Q. And they had both been marketing in Cleveland for some time?—A. Yes.

Q. Before you went to Akron on this trip?—A. Yes, sir.

Q. Had the Standard Oil Company been cutting the prices below the Columbia Oil Company in Cleveland?—A. Not to my recollection.

Q. You don't know anything about it?—A. No, sir; not to my recollection.

Q. Don't you know that there was fierce competition between the Columbia and the Standard in Cleveland?—A. There was competition there; yes, sir.

Q. Did not the Standard Oil Company cut the prices of the Columbia Oil Company?

Mr. ROSENTHAL. I object to that. He has just answered that he has no recollection of their ever having done that. I want to know how many times exactly the same question may be asked and an answer called for, and charged up against my time.

Q. Please answer the question.—A. Put the question again, please.

Mr. KELLOGG. Read the question to the witness.

The reporter read as follows: "Q. Did not the Standard Oil Company cut the prices of the Columbia Oil Company?"

A. Not to my recollection they did not.

Mr. ROSENTHAL. You will be asked that same question now in about three minutes again.

Mr. KELLOGG. That is all. I have taken very little of your time in cross-examining your witnesses.

Mr. ROSENTHAL. Oh, you never worry me. Do not fret about that.

9451 Mr. KELLOGG. You seem to be terribly worried about something.

Mr. ROSENTHAL. Not one whit.

Mr. KELLOGG. Mr. Brusman, will you kindly remain here? I may want to ask you another question. Remain in the court room. (To

the examiner:) I will excuse the witness, but I may want to ask him some further questions later in the day.

The EXAMINER. All right; be back at 2 o'clock.

9452 S. K. BRUSMAN, recalled for further cross-examination, testified:

By Mr. KELLOGG:

Q. Mr. Brusman, is that your signature [handing witness paper]?—A. Yes, sir; it looks like it.

Q. Did you swear to that before a notary?—A. No, sir.

Q. You never did?—A. No, sir.

Q. You signed that statement, did you?—A. That is my signature.

Q. That is your signature?—A. Yes, sir.

(The paper was marked "Petitioner's Exhibit 926" for identification.)

Q. Petitioner's Exhibit 926, which I showed you, is the one. That is your signature, is it?—A. Yes, sir; that is my signature.

Q. Do you remember signing that statement or any statement?—A. I signed a statement.

Q. You did?—A. That is my signature.

Q. Before a notary by the name of J. J. Lane?—A. No, sir.

Q. Do you know Mr. Lane?—A. No, sir.

Q. You made no affidavit to that?—A. No, sir.

Q. You signed the statement?—A. That is my signature.

Q. Was the statement true that you signed?—A. I never read it.

Q. You never read it?—A. No.

Q. Where was that made?—A. That was made down at the Columbia Refining Company's office.

9453 Q. It was? When?—A. Well, I don't know. That was about 1905, I should judge, or '6.

Q. 8th of June, 1905?—A. I don't remember just when it was. It was about that year.

Mr. KELLOGG. Just read that over. You can be going on with something else, if you want to, Mr. Rosenthal.

Mr. ROSENTHAL. Let me see it.

(Petitioner's Exhibit 926 was handed to Mr. Rosenthal.)

Mr. KELLOGG. You read that over, will you [handing Petitioner's Exhibit 926 to witness]?

9454 S. K. BRUSMAN, recalled for further cross-examination, testified as follows:

By Mr. KELLOGG:

Q. Did you read this Exhibit 926 through?—A. Yes, sir.

Q. Did you sign that statement?

Mr. ROSENTHAL. He said he did already.

A. I signed the statement. That is my signature.

Q. Are those facts correct as therein stated?—A. Why, they are partly correct. There are some things that are correct; yes.

Q. Well, are they correct or not, that is the question?—A. I don't understand the bottom of it there.

Q. Well, the bottom—I should have explained to you that the note in the handwriting has nothing to do with the affidavit.

Mr. ROSENTHAL. There is no objection to that statement going in as a statement made by this man, with the heading and the bottom eliminated. Do not let us waste any time on that.

Mr. KELLOGG. All right.

Q. The bottom you refer to, that you have no recollection of, is that in your hand writing?—A. No; and I never swore to that.

Q. You signed it?—A. I signed it there, and that was the last I saw of it until now, and I never read it over at that time. I was in a hurry.

Q. But it is correct, with the exception of the writing?—A. I signed it.

Q. Well, it is a correct statement?—A. Something similar to that happened; yes, sir.

9455 Mr. KELLOGG. I offer it in evidence—with the exception of the heading, did you say?

Mr. ROSENTHAL. The heading and the note of Durand. Both of them should come off.

9456 R. E. MILLS, called on behalf of the defendants, being duly sworn, testified as follows:

Direct examination by Mr. ROSENTHAL:

Q. What is your full name?—A. Robert E. Mills.

Q. Where do you live?—A. Lorain, Ohio.

Q. How long have you lived at Lorain?—A. About twenty years.

Q. What is your business?—A. Draying and transfer and storage.

Q. Were you ever in the employ of the Standard Oil Company?—A. Yes, sir.

Q. When?—A. From 1890, perhaps, to 1904, directly and indirectly.

Q. Where; at Lorain?—A. At Lorain, Ohio.

Q. What doing?—A. Delivering and selling oil.

Q. Were you the local agent there?—A. From 1899 until 1904 I was.

Q. How large a town is Lorain?—A. About 35,000 at the present time.

Q. Do you know C. J. Castle, of the Columbia Refining Company?—A. Yes, sir.

Q. How long have you known him?—A. Since 1905, when I met him first, I believe.

Q. Castle testified that when he began business at Lorain by establishing a station there in September, 1904, the market price of Water White oil at that time was 10 cents, the established retail price

9457 13 cents, and that he (Castle), operating through the Columbia Refining Company, commenced at 10 cents, but that prices changed in about a week; the Standard established a tank-wagon

price of 8 cents, that being a drop of 2 cents, by means of a 2-cent rebate, and that thereupon he (Castle) met this price with an open 8-cent price, and that the prices of the Standard were cut a half a cent then until they got down to 6 cents, but that he (Castle) never reduced his price below 6½ cents. In September, 1904, were you the local agent of the Standard Oil Company at Lorain?—A. Yes, sir.

Q. What was the price of oil at that time there?—A. 10 cents.

Q. You mean the tank-wagon price, wholesale price?—A. The tank-wagon price; yes, sir.

Mr. KELLOGG. What price was that?

WITNESS. 10 cents on Albaine oil.

Q. Do you remember when the Columbia Refining Company came into that market?—A. Yes, sir.

Q. When was it, at that time?—A. About September. I don't remember the date.

Q. What then happened to the price?—A. The price continued—the Standard Oil Company's price.

Q. What did the Columbia Refining Company do?—A. They cut our market and got some business.

Q. How much did they cut your market?—A. A cent and a half.

Q. Who was it that initiated, started, that cut?—A. The Columbia Refining Company.

Q. And to what price did they almost immediately reduce
9458 their tank-wagon prices?—A. The price held at 8 cents for some short time.

Q. Did the Standard Oil Company meet that price?—A. No, sir.

Q. Did you ever meet that price?—A. The price was reduced to that later on.

Q. The Standard Oil Company's price?—A. The Standard Oil Company's price; yes, sir.

Q. The Standard Oil Company reduced its price to 8½?—A. No; not to 8½.

Q. Well, what was your reduction?—A. Half a cent.

Q. A half a cent?—A. Yes, sir.

Q. And did you reduce beyond a half a cent? Did you come down to 8 cents?—A. Yes, sir—no.

Q. When you came to 8 cents, where was the Columbia Refining Company?—A. Pardon me. 9½ was my lowest price.

Q. 9½ was your lowest price?—A. Yes, sir.

Q. Then, you do not wish to be understood as saying that you ever reduced the price to 8 cents?—A. No, sir; not while I was in their employ.

Q. And you were in the employ from September till when?—A. Till December 31.

Q. Until December 31, 1905?—A. Yes, sir.

Q. Then you became the agent of the Columbia Refining Company, did you not?—A. Yes, sir.

Q. On January 1, 1905?—A. Yes, sir.

Q. And what price was the Columbia Refining Company selling for when you became its agent, January 1, 1905?—A. I think it was 8 cents.

9459 Q. What price was the Standard selling for at that time?—A. At 9½, I believe.

Q. And thereafter did the Standard reduce its price to 8 cents?—A. I believe it did.

Q. And to what did the Columbia then reduce its price?—A. To 7½.

Q. Did the Standard Oil Company ever cut its price below the Columbia?—A. No, sir.

Q. And how low did that price go there in Lorain?—A. My instructions were to reduce it to——

Q. Your instructions from whom?—A. From Castle.

Q. After you became an agent of the Columbia?—A. Yes, sir.

Q. Were to do what?—A. Were to sell under their market.

Q. Under whose market?—A. Under the Standard Oil Company's market.

Q. How much?—A. From half a cent.

Q. And did you follow those instructions?—A. Yes, sir.

Q. Is that the way you got some business there?—A. I had to do that in order to get any business.

Q. So that, as I understand you, after you became the agent of the Columbia, under Castle's instructions, you kept cutting a half a cent under the Standard Oil Company's market price?—A. Yes, sir.

Q. I show you Defendants' Exhibits 100–A, 100–B, 100–C, 100–D, and 100–E. Will you please tell me what those are?—A. Those are tank-wagon delivery tickets.

Q. Of the Standard Oil Company and of the Columbia Re-

9460 fining Company, are they not?—A. Yes, sir.

Q. I call your attention now to Exhibit 100–A. That is a tank-wagon delivery ticket of the Columbia Refining Company, under date of December 28, 1904, is it not?—A. Yes, sir.

Q. Did you ever see that before?—A. That ticket?

Q. Yes.—A. Why, perhaps I have; yes, sir.

Q. You were then the agent of the Standard, on December 28, 1904. Who was P. J. Schnitzler, Lorain?—A. He is a grocery dealer.

Q. A grocery dealer at that point?—A. Yes, sir.

Q. This tank-wagon delivery ticket of the Columbia Refining Company shows a sale to him of 40 gallons of Water White oil on December 28, 1904, at 8 cents.—A. Yes, sir.

Q. Does it not?—A. Yes, sir.

Q. 8 cents a gallon?—A. It does.

Q. At that time what was the price at which the Standard Oil Company was selling its oil at Lorain?—A. At 9½.

Q. I show you Defendants' Exhibit 100–B. State what that is.—A. Tank-wagon delivery ticket for the Standard Oil Company.

Q. Dated when?—A. Dated December 31, 1904.

Q. Three days after Defendants' Exhibit 100–A the Columbia Refining Company ticket is dated?—A. Yes, sir.

Q. What is the price at which the Standard Oil Company was then selling its Water White oil at Lorain?—A. 9½ cents.

Q. As shown by that ticket?—A. Yes, sir.

Q. Defendants' Exhibit 100–C shows that on January 3, 1905, the Standard Oil Company sold 40 gallons of Albaine oil—that was the Water White, was it not?—A. Yes, sir.

9461 Q. To A. L. Hill, of Lorain, Ohio, at 9½ cents. Who was A. L. Hill?—A. He was a grocery dealer at Lorain.

Q. I show you a ticket on the Columbia Refining Company, showing a sale to A. L. Hill by the Columbia Refining Company of 50 gallons of Water White oil on January 4, 1905, at 8 cents, one day after the Standard had sold him oil at 9½ cents. Is that the same A. L. Hill as is shown in the Standard Oil Company ticket?—A. It is the same A. L. Hill; yes, sir.

Q. There was only one A. L. Hill in that town, was there?—A. That is all; yes, sir.

Q. Who were Geiger & Ingraham?—A. They were grocery dealers.

Q. Where?—A. At Lorain.

Q. Defendants' Exhibit 100-E shows the sale of 70 gallons of Water White oil by the Columbia Refining Company on January 4, 1905, to Geiger & Ingraham, at 8 cents. Let me ask you who was Dresher?—A. Dresher was tank-wagon driver employed by me.

Q. While you were agent of the Columbia Refining Company?—A. Yes, sir.

Q. I notice that these Columbia Refining tickets that we have put in evidence, two of them, 100-D and 100-E, are signed "Columbia Refining Company, Dresher." Is that Dresher's signature?—A. Yes, sir.

Q. Who was E. L. Hunter?—A. E. L. Hunter was the agent of the Columbia Refining Company before I took it up.

Q. Is that his signature on Defendants' Exhibit 100-A?—A. Yes,

Q. Who was F. Andrus?—A. Mr. Andrus was the agent that took up the Standard Oil Company after I left.

9462 Q. Is that his signature on Defendants' Exhibit 100-C?—A. Yes, sir.

Q. And whose signature is this attached to Defendants' Exhibit 100-B, "Standard Oil Company, by?"—A. That is Sam Mills, by Dresher.

Q. All five of these are original tank-wagon tickets——A. Yes, sir.

Q. That were used at that time in Lorain, Ohio?—A. Yes, sir.

Mr. ROSENTHAL. I offer in evidence Defendants' Exhibits 100-A, 100-B, 100-C, 100-D, and 100-E.

Q. When you entered the employ of the Columbia Refining Company, on January 1, 1905, what, if any, instructions were given you by Castle with respect to paying retailers any rebate in order to get business away from the Standard Oil Company?—A. Why, I was instructed to allow certain dealers so much rebate.

Q. Rebates of how much?—A. From half a cent to 2 cents a gallon.

Q. Did you do so?—A. Yes, sir.

Q. Did you get business in that way?—A. I held the trade that——

Q. Were those rebates that you gave secret rebates?—A. Yes, sir, supposed to be.

Q. That is to say, you charged them a net price and then returned money to them at stated intervals? A. Yes, sir.

Cross examination by Mr. KELLOGG:

Q. When did you say the Columbia Oil Company opened
9463 up in Lorain?—A. It was in September, 1904.

Q. It was known for some time before that that you were going to open a station there, wasn't it?—A. There had been some talk of it.

Q. There had been some talk of it for some months, hadn't there?—A. I don't recollect there being any very long.

Q. For quite a while?—A. For a while; yes.

Q. Now, you had been selling oil there at 11 cents a gallon, hadn't you?—A. I don't remember the price being that.

Q. I may refresh your memory. You had been selling oil there during the winter at 11 cents a gallon, hadn't you—that winter?—A. The price was usually higher in the winter than in the summer.

Q. You sold oil there in March at 11 cents a gallon, didn't you? Please refresh your memory [handing witness three tickets].—A. January, February, March, 11 cents; yes, sir.

Q. You sold oil at 11 cents?—A. Yes, sir.

Q. You sold oil during that summer at 10½ cents, didn't you?—A. I might have. I wouldn't be positive.

Q. What is that?—A. I wouldn't be positive.

Q. Then you reduced it to 10 cents, didn't you?—A. Yes, sir.

Q. Then you reduced it, when you heard that the Columbia was coming there, to 9½ cents, didn't you?—A. No, sir; not till——

Q. You did not?—A. Not till——

Mr. ROSENTHAL. Let him finish. Not till what?

WITNESS. I think not until after we were positive that
9464 the Columbia was underselling us. I think there was a cut of a half a cent then.

Q. You made a cut of a half a cent?—A. Yes, sir.

Q. Now, who is this man Mills appearing on these tickets, or Hill, is it?

Mr. ROSENTHAL. A. L. Hill.

Q. On Defendants' Exhibit 100–B. Is that Hills or Mills?—A. Hill, A. L. Hill.

Q. He was your agent there, was he?—A. No, sir; he was a customer.

Q. Oh, he was a customer?—A. Yes, sir.

Q. "Standard Oil Company, by Mills."—A. Oh, at the bottom! That is supposed to be my name.

Q. That is your name?—A. Yes, sir.

Q. Your tank-wagon driver signed that for you?—A. Yes, sir; those were his instructions.

Q. Now, did you not sell oil during the months of June, July, and August at 9½ cents in the city of Lorain?

Mr. ROSENTHAL. What year?

Q. 1904. I show you those tickets [handing witness tickets].

Mr. ROSENTHAL. I object to that. That is not an issue in this case.

A. Well, it would be nothing uncommon to sell it at those seasons of the year at 9½.

Q. You said that you hadn't reduced your price until the Columbia Oil started there, down to 9½, didn't you?

Mr. ROSENTHAL. He says so yet.

A. Well, this was a natural decline.

9465 Q. This was a natural decline?—A. Yes, sir.

Q. Now, the Columbia hadn't started there, you say, until September?—A. Until September; yes, sir.

Q. Yet in June and July you were selling at 9½ cents?—A. Yes, sir.

Mr. ROSENTHAL. But they raised it before the Columbia came there.

Mr. KELLOGG. Will you wait until I get through cross-examining this witness?

Mr. ROSENTHAL. I won't if you are going to cross-examine him on all things under the sun that haven't any relevancy to the issue in this case. The testimony is that the Columbia came there in the fall. The price was 10 cents. Now, what earthly difference does it make whether the price was 9½ cents before the Columbia came there?

Mr. KELLOGG. It wasn't anything of the kind.

Q. You were selling oil durnig July and August and September at 9½, weren't you?—A. Yes; in the summer months.

Q. Then it was not selling at 10 when the Columbia came in there, was it?—A. Yes, sir. I had reduced it from——

Mr. ROSENTHAL. I wish you to give the witness an opportunity to answer. I object to your standing on top of the witness and cutting him off.

Mr. KELLOGG. I don't care what you object to.

Mr. ROSENTHAL. Well, you will care what I object to.

Mr. KELLOGG. No, I won't.

Mr. ROSENTHAL. Because I will withdraw the witness from cross-examination if you don't.

9466 Mr. KELLOGG. Let him refuse to answer, then.

Mr. ROSENTHAL. He will refuse very promptly unless you conduct yourself properly.

Mr. KELLOGG. I am conducting myself properly, and I don't propose to be insulted by you, either.

Mr. ROSENTHAL. You are not when you cut a witness off from his answer and prevent him from finishing it.

Mr. KELLOGG. He had already finished.

Mr. ROSENTHAL. He had not finished. Now, I submit, may it please the examiner, that counsel when cross-examining stand at a proper distance from the witness and give the witness a reasonable opportunity to conclude his answer and give me an opportunity to make an objection when I want to make it.

Mr. KELLOGG. I submit that you stood right up next to the table.

Mr. ROSENTHAL. Oh, yes, but then there is quite a difference between standing up next to the table when I am having certain exhibits identified and doing what you are doing.

Mr. KELLOGG. So am I. I am having three exhibits identified.

Mr. ROSENTHAL. I haven't the slightest objection to your doing that now.

Mr. KELLOGG. I offer to show by the exhibits which I was then showing him, and which I again show him, that he was selling oil in June, July, August, and September at 9½ cents. Now, I want to know if that is correct or if it isn't.

Mr. ROSENTHAL. I object to it upon the ground that it is utterly immaterial what he was selling oil for in the summer
9467 time before the Columbia Refining Company came there.

Q. Is that correct?—A. I wouldn't attempt to answer just what dates they were selling that at 9½ cents.

(Tickets marked Petitioner's Exhibits 922, 923, and 924.)

Q. I show you Petitioner's Exhibits 922, 923, and 924. Are those tank-wagon tickets of the Standard Oil Company issued——

Mr. ROSENTHAL. Are those new exhibits that you are offering now?

Mr. KELLOGG. Yes, sir.

Mr. ROSENTHAL. I object to their being offered at this time, upon the ground that the Government has not any right to offer primary evidence while we are putting in our defense and charge the time to us, or opening up new subject-matters for examination.

Q. Answer the question, please.—A. They were tank-wagon tickets; yes, sir.

Q. What?—A. Those were tank-wagon tickets.

Q. Of the Standard Oil Company?—A. Yes, sir.

Q. Now, after refreshing your memory by looking at those tickets, is it not a fact that during June, July, August, and September the Standard Oil Company were selling oil at 9½ cents in Lorain?—A. Why, I don't know just what date in September.

Q. Look at them.—A. There might have been some sold in September at that price. 8/19 is the last date.

Mr. ROSENTHAL. "8/19" isn't September, is it? That is August.

Mr. KELLOGG. We are supposed to know that. Now, will you keep still and let me cross-examine this witness, or will you keep chipping in?

9468 Mr. ROSENTHAL. When you say September and show an August ticket I want to straighten the witness out.

Mr. KELLOGG. I know you do.

Q. Well, did you during June, July, and August?—A. Yes, sir.

Mr. ROSENTHAL. Now, that is different. Let the record show that.

Q. Did you sell in September at 9½?—A. What?

Q. Did you also sell in September at 9½?—A. I might have sold some; yes, sir.

Q. Did you not then reduce your price to 8 cents during October?—A. Not on Albaine, that I know of.

Q. Well, you did on other oil, didn't you?—A. I might possibly have reduced on a cheaper grade of oil—not for competitive purposes.

Q. Didn't you sell Albaine oil in October for 8 cents?—A. Not to my recollection.

Q. Not to your recollection?—A. No, sir.

Q. Now, on the first of January you went to work for the Columbia Oil Company?—A. Yes, sir.

Q. And during that year the Columbia continued to sell oil in Lorain?—A. Yes, sir.

Q. How low a price did you sell it for—the Columbia?—A. I think 6 cents was the lowest that I——

Q. The Standard Oil sold at 6 cents also, did it not?—A. No, sir.

Q. It did not?—A. No, sir; not to my knowledge.

9469 Q. Who did you say Mr. Andrus was?—A. He was agent for the Standard Oil Company at Lorain.

Q. Is it his name that appeared on Defendants' Exhibit 100–C that Mr. Rosenthal showed you?—A. Yes, sir. That is Mr. Andrus's.

Q. You are familiar with Mr. Andrus's signature, are you?—A. Yes, sir; I have seen it.

Q. I show you Standard Oil tank-wagon tickets for oil in Lorain during 1905, at 6 cents a gallon.

Mr. ROSENTHAL. What kind of oil?

WITNESS. Diamond White oil.

Q. Diamond White oil?—A. That was not Water White oil.

Q. What grade were you selling for the Columbia?—A. Water White.

Q. Do those tickets say Diamond White oil?—A. Yes, sir. D. S. oil.

Q. What? Point out where you see it. I don't see it.—A. D. S. oil—no; that is D. S. gasoline.

Q. So you are mistaken. Is there a word on there about it being Diamond White oil?—A. Pardon me. It is White oil in the blank.

Q. Is there any Diamond White oil on any one of those tickets?—A. I will have to beg your pardon, I guess. The man forgot to fill it in.

Q. It does not say what kind of White oil it is, does it?—A. No, sir; it does not.

Q. Then, you don't know what kind of White oil they were selling at 6 cents, do you?—A. I know it was reported that it was Diamond White oil.

9470 Q. What were you selling?—A. I was selling Water White.

Mr. ROSENTHAL. For the Columbia?

WITNESS. For the Columbia.

Q. The fact is, then, that during the year 1904, before the Columbia came in there, you sold oil at 11 cents in the winter; that is correct, is it?—A. Yes, sir.

Q. In the summer you reduced it down to 9½ cents?—A. 9½; yes, sir.

Q. When you heard the Columbia was coming in there?

Mr. ROSENTHAL. He hasn't said that.

Q. Is that correct?—A. No, sir.

Q. It is not correct?—A. No, sir.

Q. Well, you did hear the Columbia was coming in?—A. I heard it a short time before it came; it was not very long, though.

Q. And then you kept on cutting the price down until you left them, did you?—A. 9½ cents, I believe, was what——

Q. You didn't sell any oil in November and December at 8 cents?—A. Not of the Albaine.

Q. Did you sell Water White?—A. I might have sold Diamond White.

Q. You might have sold Diamond White?—A. Yes, sir.

Mr. ROSENTHAL. He didn't say that he might have sold Water White. Don't get confused on that.

Q. Then after that they kept on cutting the price down until they got it down to 6 cents, did they?—A. Yes, sir.

Q. Now, you say that the Columbia cut first. How do you know it did?—A. I know the instruction I had was to keep my price
9471 under the Standard's in order to get the business.

Q. You say you paid rebates? To whom did you pay rebates?

Mr. ROSENTHAL. You mean he paid rebates for the Columbia?

WITNESS. For the Columbia.

Q. To whom?—A. Mr. Max Hart, Elyria, was one.

Q. Anybody else?—A. Conroy & Miller, I believe, of the same town, was another.

Q. When was that?—A. It was in 1905. I wouldn't be positive, but I think the Elyria Grocery Company.

Q. What is that?—A. I wouldn't be positive, but I think the Elyria Grocery Company was another one.

Q. Were the Standard doing the same thing?—A. Not to my knowledge.

Q. Did you ever do that for the Standard?—A. No, sir.

Q. Did they ever make any contracts of that kind while you were their agent?—A. Not to my knowledge.

Q. Did the other agents of the Standard? Did your superior officers make such contracts? —A. No, sir.

Q. You don't know anything about it?—A. No, sir.

Mr. ROSENTHAL. Well, he says, "No, sir."

Q. You don't know anything about it, do you?—A. I don't; no, sir.

Mr. KELLOGG. I offer in evidence Petitioner's Exhibits 922, 923, and 924.

Mr. ROSENTHAL. Same objection as I have heretofore made.

Redirect examination by Mr. ROSENTHAL:

Q. Whatever the price of the Standard may have been dur-
9472 ing the summer of 1904, whether it was 9½ cents or not, when the Columbia came into the field at Lorain the Standard Oil price was 10 cents, was it not?—A. Yes, sir.

Recross-examination by Mr. KELLOGG:

Q. For what grade of oil?—A. Albaine oil.
Q. Is that your highest grade?—A. That is water white; yes, sir.
Q. That is your highest grade?—A. No; it is not.
Q. What grade was it the Columbia offered to sell at that time?—A. The Columbia; water white.
Q. What?—A. Water white.
Q. Did you see it?—A. The Columbia?
Q. Yes.—A. I saw the oil; yes, sir.
Q. Did you test it?—A. I did not; it was labeled, though.
Q. Was it the same grade as your Albaine?
Mr. ROSENTHAL. He said it was water white, both of them.
Q. I thought you said Albaine was a higher grade than water white?
Mr. ROSENTHAL. He hasn't said so.
A. I say it was a high grade of water white oil.
Q. It was the highest grade of water white?—A. Yes, sir.
Q. Did the oil sold by the Columbia correspond to that Albaine oil?—A. It was supposed to.
Q. Well, did it?—A. It was recommended to. I didn't test it.

9473 THOMAS W. PFLEGLER, called on behalf of the defendants, being duly sworn, testified as follows:

Direct examination by Mr. ROSENTHAL:

Q. What is your full name?—A. Thomas W. Pflegler.
Q. Where do you live?—A. Cleveland, Ohio.
Q. How long have you lived in Cleveland?—A. 28 years.
Q. What is your business now?—A. Carpenter.
Q. Where?—A. For the city of Cleveland.
Q. Were you ever in the oil business?—A. Yes, sir.
Q. When?—A. In 1904 and 1905.
Q. Where?—A. Cleveland.
Q. What was the nature of your business?—A. Retail business.
Q. And were you an oil peddler?—A. Yes, sir.
Q. To whom did you sell?—A. I bought my oil from the Columbia Oil Company to start with.
Q. To whom did you sell your oil?—A. To whom I sold?
Q. Yes. To the consumers?—A. Yes, sir.
Q. You were a peddler of oil who bought your oil in the first place from the Columbia Refining Company?—A. Yes, sir.
Q. And you sold from house to house, did you?—A. Yes, sir.
Q. How many wagons did you have?—A. One.
Q. Did you drive that yourself?—A. Yes, sir.

Q. You attended to all of your business yourself, did you?—A. Yes, sir.

9474 Q. Do you remember the Cleveland Oil Delivery Company?—A. I remember of them; yes, sir.

Q. Did they start in business when you were in the peddling business?—A. Yes, sir; shortly after I had started.

Q. That was the square can concern?—A. Yes, sir; square cans.

Q. Do you know Mr. Castle?—A. Yes, sir.

Q. How long have you known him?—A. Since about 1903, I think, or 1902.

Q. When he was on the stand at Cleveland, he told a very lurid story of how two hundred peddlers were making their living at Cleveland, about 1903, when the Standard Oil Company started the Cleveland Oil Delivery Company, and that they cut the prices to such an extent, and conducted their business in such a way, so nefariously and unfair as to drive out practically all of these two hundred peddlers. Now, I want to ask you a few questions about that. When did you start in business as an oil peddler?—A. September 27, I believe it was, 1904.

Q. And you began buying your oil from the Columbia Refining Company?—A. Yes, sir.

Q. They had a station at Cleveland, had they?—A. Yes, sir.

Q. And about how many peddlers were there doing business at that time?—A. That I couldn't state. I don't know.

Q. Were there two hundred?—A. I couldn't say.

Q. Have you any judgment about that?—A. I have no judgment to tell how many peddlers there were.

Q. Who furnished you with the money to buy your peddling outfit and begin business?—A. C. J. Castle.

9475 Q. And how long did you continue buying your oil from the Columbia Refining Company while you were so peddling at Cleveland?—A. About eight months.

Q. During that period of time were the Standard Oil Company and the Cleveland Oil Delivery competitors of yours?—A. They were.

Q. Did either of those two companies in competition with you ever use any unfair means of any kind to get your customers away from you?—A. Not that I know of.

Q. Were you always treated squarely and fairly by them as competitors?—A. Yes, I was by the Standard Oil Company.

Q. This can-peddling business that they operated there through the Cleveland Oil Delivery, did that injure your business?—A. Not a bit.

Q. Not a bit?—A. No, sir. I always got a cent a gallon more than they did, and they never injured me a bit.

Q. So, it was not the starting of that company by the Standard that drove peddlers out of business there by the wholesale, was it?—A. No, sir; not that I know of.

Q. When did you quit buying from the Columbia Refining Company?—A. I can tell you the exact date [after referring to memorandum], January 9, 1905.

Q. Why did you quit?—A. Poor service.

Q. From whom did you thereafter buy as long as you remained in the oil business?—A. The Standard Oil Company.

Q. How was the service?—A. All right. If I didn't go to get my goods it was my own fault.

9476 Q. How long did you continue in the oil business?—A. I believe I continued in the oil business about six months.

Q. Why did you quit?—A. The natural gas got too strong on my route and I thought I would sell out because it didn't pay.

Q. Was that about the time that natural gas was introduced into Cleveland?—A. Yes, sir.

Q. And it was the introduction of the natural gas into Cleveland that drove you out of the oil-peddling business?—A. Yes, sir.

Q. Have you in mind any single week, for example, when you lost a great deal of your trade on Ridge avenue?—A. I couldn't mention the dates, but on Ridge avenue and Haley street, and places along through there, they turned the gas in there all at once, turned it all in through one week, and where I used to leave 60 or 70 gallons I only left about 20.

Q. So that by reason of the introduction of the natural gas there, your business dropped to 20 or 25 per cent of what it was?—A. Yes, sir.

Q. Could they purchase the natural gas cheaper than they could the oil?—A. Why, sure.

Q. Very much cheaper?—A. They got it for 30 cents a thousand.

Q. They got natural gas for 30 cents a thousand?—A. Yes, sir. They used that for their gas stove, to cook with, for about 30 cents a month, whereas it would cost them more than that for a week buying gasoline for use in a gasoline stove.

Q. You were a peddler of gasoline as well as of oil, were you?—A. Yes, sir.

Q. And did they also use this natural gas for illuminating

9477 purposes?—A. Yes, sir.

Q. Do you know whether other peddlers there in Cleveland about that time had that same experience?—A. Yes; they all complained to me that natural gas was bothering them an awful lot. As we would meet at the plant we would talk it over lots of times.

Q. So that the real thing that affected the peddling business there was the natural gas?—A. To my suggestion; yes.

Cross-examination by Mr. KELLOGG:

Q. You say you commenced peddling oil September 27, 1904?—A. Yes, sir.

Q. And Castle furnished you money to buy your peddling outfit?—A. Yes, sir.

Q. And you remained peddling oil, buying from him, how long?—A. About eight months, I believe it was.

Q. To January 9, 1905?—A. Yes, sir.

Q. Then did you pay him back the money for your—— A. Yes, sir; I did.

Q. Did you sell out to the Standard?—A. No, sir; I did not.

Q. Did they furnish you the money to pay Castle back?—A. Why, some of it they loaned me.

Q. They loaned you the money to pay back Mr. Castle?—A. Some of it; yes.

Q. You borrowed the rest somewhere else?—A. Sir?

Q. You got the rest somewhere else?—A. No; I had paid
9478 him that much already.

Q. The Standard furnished you the balance of the money to pay back Mr. Castle?—A. Yes, sir.

Q. And then you went to peddling for the Standard?—A. No, sir; I was peddling for myself. I purchased from the Standard.

Q. You got your oil from the Standard?—A. Yes, sir.

Q. And when you sold out, to whom did you sell out?—A. To three different peddlers. I sold my team to a fellow in the country, my wagon, and I sold my tanks to the Standard Oil Company.

(A recess was here taken until 2 o'clock p. m.)

9479 HENRY R. POTTER, called on behalf of the defendants, being duly sworn, testified as follows:

Direct examination by Mr. ROSENTHAL:

Q. Where do you live, Mr. Potter?—A. Cleveland, Ohio.

Q. What is your business?—A. At present I am plumber and gas fitter.

Q. Were you ever in the oil business?—A. Yes, sir.

Q. When?—A. From 1890 to 1902, for the Standard.

Q. 1890 to 1902 for the Standard?—A. For the Standard; yes, sir.

Q. Then where?—A. Then I was out of the oil business—that is, working for anybody else; I went in business for myself.

Q. Were you ever employed by the Columbia Refining Company?—A. Yes, sir.

Q. That is the company controlled by C. J. Castle?—A. Yes, sir.

Q. Where were you employed by that company?—A. I was in Lorain, Ohio.

Q. When?—A. Some time during the summer of 1904. The exact date I do not know.

Q. For how long?—A. About seven weeks.

Q. Doing what?—A. Selling oil and gasoline.

Q. From tank wagon?—A. From tank wagon; yes, sir.

Q. From a tank wagon of the Columbia Refining Company?—A. Yes, sir.

Q. At Lorain?—A. At Lorain.

9480 Q. Who was your principal competitor there?—A. The Standard Oil Company.

Q. Who had preceded you representing the Columbia Oil Company at Lorain?—A. No one.

Q. Do you mean that you started the business there for the Columbia?—A. Yes, sir.

Q. And that, you say, was when; in October?—A. No; I think it must have been in September—I am not positive—of 1904.

Q. September of 1904?—A. The exact date I don't know.

Q. Did you have any talk with Mr. Castle before you went there?—A. Yes, sir.

Q. Concerning the policy that you were to pursue?—A. Yes, sir.

Q. State what that was.—A. I was to take a wagon from Cleveland and go to Lorain, establish a tank-wagon business, which I did.

Q. What else did he tell you to do?—A. I was authorized for to cut the price of oil a cent and a half a gallon, which I did.

Q. Cut the price under what other price?—A. Under 10-cent margin.

Q. Whose price was the 10-cent price?—A. Standard Oil Company.

Q. What was said to you by Castle concerning that?—A. He said: "Harry, you go to Lorain. We want that business, we are going to get it, and you sell the goods. I don't give a damn if I don't
9481 make a cent. We want the business and we are going to have it."

Q. What did he say to you about making trouble for the Standard, if anything?—A. He said: "When you get through with the Lorain business I will have a car made for you as a sort of trouble maker." He said: "You can dodge into a town here and there, just like a Spanish bullfighter. You can throw a dart into them here and jump out and throw one into the other side and jump out. Just a trouble maker; that is what I am going to have you for."

Q. A trouble maker for whom?—A. For the Standard Oil Company.

Q. When you went to Lorain, state whether or not you did cut the price; and if so, how much.—A. I cut the price from 10 cents to 8½.

Q. For what company?—A. For the Columbia Refining Company.

Q. How long did you continue to work for the Columbia Refining Company?—A. I worked for them about two months or nine weeks—well, it was nearly ten weeks, I guess. The exact time I haven't got; I haven't got the date.

Q. What did you do after that?—A. I established Mr. Hunter as agent in Lorain, and I came to Cleveland to prepare to go to Columbus. That was what I was expected to do, but Mr. Castle stated to me, when I got there, that he was not ready for to open up the Columbus work and that I could work around the place there. So I worked around his office, put in a foundation there, and built a wagon shed.

Q. Did you afterwards go into Cleveland for yourself?—A.
9482 No, sir. I was in business immediately after resigning from the Standard Oil Company.

Q. What business were you in?—A. Retail oil business.

Q. Were you a peddler of oil at Cleveland?—A. Yes, sir.

Q. When was that, in 1902 and 1903?—A. I resigned from the Standard in January, I think, 1902, or 1903, along about that time, but two weeks previous to my resigning from the Standard I had bought another man's oil route and had started in business.

Q. Then you became an oil peddler in the city of Cleveland, did you?—A. Yes, sir.

Q. Doing business for yourself?—A. Yes, sir.

Q. Where did you get your oil from?—A. I bought it from everybody.

Q. How long did you remain in business?—A. About thirteen months.

Q. And why did you quit?—A. I quit because natural gas was coming in and I could see that there might be a living in the oil business, but there would not be any money in it. You could not make good money. The result was I sold out while I had the opportunity.

Q. And who bought you out?—A. Why, Mr. Hawkins was supposed to buy me out. Mr. Castle paid me the money.

Q. And you were one of the several hundred peddlers who went out of business, but you were bought out by Castle, or at least the money was paid by Castle?—A. Mr. Castle paid me the money.

Q. Was the use of natural gas extensive in Cleveland at that
9483 time?—A. It was coming. They had only just started it.

Q. And it has been growing steadily and tremendously ever since, hasn't it?—A. Yes, sir.

Q. And it was that which put many of the oil peddlers out of business in Cleveland, wasn't it?—A. That and that alone.

Q. Is it or is it not true that you ceased doing business then in Cleveland because of the competition of the Standard or the Cleveland Oil Delivery Company?—A. They had nothing to do with me whatever.

Q. Did you ever lose any business by reason of them to your knowledge?—A. No, sir.

Q. Do you know of any price-cutting war that was instituted there by the Cleveland Oil Delivery Company or the Standard against the peddlers?—A. No, sir; I sold for the same price they did.

Cross-examination by Mr. KELLOGG:

Q. Now, you say you were a tank-wagon driver for the Standard until about 1902?—A. Yes, sir.

Q. Then you purchased a retail business from whom?—A. Louis Kleiber.

Q. Was he a peddler?—A. He was.

Q. He was a peddler who was buying oil from the Columbia Oil Company, wasn't he?—A. No, sir; he was buying from the Standard.

Q. Then you remained a peddler until what time?—A. About thirteen months.

Q. Until you went to work for Mr.——A. No, sir.

9484 Q. Oh, then you sold out?—A. I sold out.

Q. What time did that bring you to—to 1904 or 1903, or when?—A. Till 1903.

Q. Till what time in 1903?—A. I don't exactly remember the date, but I was in business just thirteen months.

Q. When did you go to work for the Columbia Oil Company?—A. In 1904.

Q. In September?—A. About September. The exact date I don't remember.

Q. He engaged you to go to Lorain and open up a tank-wagon station?—A. A tank-wagon business—wholesale oil business.

Q. And you started in by cutting the price to 8½ cents?—A. Yes, sir.

Q. The first oil you sold was at 8½ cents?—A. 8½ cents; yes, sir.

Q. Didn't you sell it at 9½?—A. No, sir; I don't think so.

Q. Is that your signature [showing witness ticket]?—A. It looks very much like it; yes, sir.

Q. Is that your signature?—A. Yes, sir.

Q. Is that one of the tickets you gave out for the Columbia Oil Company?—A. It looks like it; yes, sir.

Q. Doesn't it say that you sold 50 gallons of Water White oil at 9½ cents?—A. Yes; it does.

Q. Well, you did, didn't you?—A. According to that I did.

Q. Isn't it a fact that you started in at 9½ and the Standard cut the price and you went on down?—A. No, sir; I cut the price a cent and a half a gallon. I had positive orders to do so.

9485 Q. That is not a cent and a half cut, is it?—A. According to that it is not a cent and a half cut, but that is exactly what I did.

Q. You sold that oil at 9½, didn't you?—A. According to that, at 9½ cents; yes, sir.

Q. And that was not a cut of a cent and a half, was it?—A. I cut the price a cent and a half.

Q. That was not a cut of a cent and a half?—A. Not according to that, if the price was 10 cents.

Q. As a matter of fact, wasn't the price that the Standard made at that time 9½?—A. We made the price. I made the price. I went to Lorain and I made the price.

Q. Wait a moment. You made that price 9½, didn't you?—A. According to that; yes.

Q. That is correct, isn't it?—A. That price; yes. If that is my signature, and it looks very much like it, why, that is the price, but I made the price a cent and a half below the Standard's price.

Q. Now, one moment. This purports to be a ticket dated September 15, 1904, which, you say, is in your handwriting, for the sale of 50 gallons of Water White oil at 9½ cents a gallon. Now, did you sell at that price or did you not?—A. Why, if that is my writing I sold it.

Q. Well, is that your writing?—A. It looks like it; yes, sir.

Q. Then you sold at that price?—A. Yes.

Q. Then it is, isn't it?—A. It looks very much like it. I wouldn't swear to it.

Q. Now, was 9½ cents a cut of a cent and a half under the
9486 Standard price?—A. I went there and——

Q. Answer that question. Was 9½ cents a cut of a cent and a half under the Standard price?—A. If you will tell me what the Standard price was at the time, I will tell you.

Q. You have just testified that you cut it a cent and a half and the Standard was selling at 10 cents.—A. I didn't say they were selling at 10 cents.

Q. What was it selling at?—A. I do not remember, but I cut the price a cent and a half a gallon.

Q. Did you hear the testimony of the agent of the Standard this morning when he said the price was 10 cents?—A. I paid no attention to what that agent said. I am saying to you what I remember.

Q. What is your recollection of their price?—A. That I cut the price a cent and a half.

Q. What is your recollection of the price the Standard was charging?—A. I don't remember.

Q. You don't remember anything about it?—A. No. I did think it was 10 cents, but when I had the orders to cut it a cent and a half a gallon, that is exactly what I did.

Q. As a matter of fact, didn't Mr. Castle just send you there to open up a station and tell you to follow the Standard prices?—A. No; he did not.

Q. How far is Lorain from Cleveland?—A. About 30 miles.

Q. Isn't it 28 miles?—A. About 30 miles. I never measured the distance.

Q. The Standard was selling oil at Cleveland at that time at 6½ cents a gallon, were they not?—A. I don't know anything
9487 about the Cleveland prices. I wasn't in the business before I went to Lorain.

Q. A short time before you went to Lorain you were in the business?—A. Yes; but the price of oil can change fifty times from the time I was out of the oil business.

Q. When you quit the business it was selling at 6½, wasn't it?—A. I can't remember. About six or seven cents.

Q. It was as low as 6 cents, wasn't it, in Cleveland?—A. At one time it was 3½.

Q. At one time it was 3½?—A. Yes, sir.

Q. What made it 3½?—A. I wasn't in a position to know those things. I was selling oil at the price that was made for me to sell it for.

Q. For whom?—A. I was selling for the Standard Oil Company.

Q. And they were selling at 3½ cents?—A. Yes, sir.

Q. To retailers in Cleveland?—A. To retailers in Cleveland; yes, sir.

Q. When was that?—A. I couldn't give you the exact dates, but it must have been along about 1892 or 1893, somewhere along in there.

Mr. ROSENTHAL. Wasn't it before the war?

Mr. KELLOGG. Wait a moment.

WITNESS. What is that?

Mr. ROSENTHAL. Wasn't it before the war?

WITNESS. Well, it might have been.

Q. You think it was before the war, do you?—A. Before the war.

Q. What war?—A. The Spanish war, that is what he means.

9488 I wasn't born at the other war.

(Paper marked "Petitioner's Exhibit 925.")

Q. Exhibit 925 in the exhibit I have just showed you, which you say is in your handwriting, is it?—A. Yes; it looks very much like it.

Mr. KELLOGG. I offer Petitioner's Exhibit 925 in evidence.

Mr. ROSENTHAL. I object because this is not the proper time.

Q. When you quit selling oil, what was it selling at in Cleveland?—A. When I quit selling oil?

Q. Yes.—A. For the Standard?

Q. No; I mean your peddling concern that you sold out.—A. My peddling? I was selling at 10 cents.

Q. Had it been down as low as 6 and 6½ cents?—A. No, not for me; I never sold any that way. I always got 10 cents for it.

Q. Now, isn't it a fact that you sold a great deal of oil in September and October for the Columbia Oil Company at 9½ cents?—A. I sold a good deal of oil at the prevailing price, whatever it was—the price that I made.

Q. What was it, 9½, or 8½, or 10½?

Mr. ROSENTHAL. He has already said he doesn't remember.

A. I don't remember the exact price.

Redirect examination by Mr. ROSENTHAL:

Q. Did you give any rebate when you were selling for the Columbia?—A. Yes.

Q. So it is possible that the price may have been named on

9489 the ticket 9½, and a rebate of a cent thereafter paid back to the dealer?—A. Yes, sir. I paid it to one man, positively, that I know of.

Q. Who was that man?—A. A peddler by the name of Pistol.

Q. Do you remember of any other specific instances wherein you paid a rebate?—A. None that I paid.

Q. What do you mean by that?—A. There was an understanding between two or three different ones, but the names I can't recall. If I was to go to Lorain I could tell you the ones because I would see the names.

Q. An understanding to what effect?—A. Why, with R. D. Day, of the Columbia Refining Company.

Q. To what effect?—A. That they would have a stated price for six months.

Q. Now, tell us just what you mean by that.—A. They had a price, below anything I was selling them for six months to come, and they guaranteed to take it at that price.

Q. And who was it that paid them the rebate at that time?—A. R. D. Day.

Q. So that one price might be named on your tank-wagon ticket, and the dealer, as a matter of fact, be getting his oil at an entirely different price, and lower?—A. Yes. The tank-wagon price to those dealers that had this understanding, it made no difference to them whatever. They had their price and they knew it.

Q. Do you mean to say that the Columbia was selling to certain people in Lorain at one price and the same kind of oil at the same time to certain other people at an entirely different price?—A. Yes, sir.

9490 Recross examination by Mr. KELLOGG:

Q. Who were they?—A. The names I can't recall, being a stranger in Lorain at that time and have not been there since.

Q. Is it customary to give peddlers a reduction from the price?—A. It was in that instance.

Q. Was it customary in your business? When you were working for the Standard didn't the Standard give that?—A. I had nothing to do with anything of that kind at all.

Q. Didn't you get it when you were peddling and buying from the Standard?

Mr. ROSENTHAL. Get what?

Mr. KELLOGG. A price below the retail price.

A. I don't know as it is necessary for me to answer that question.

Mr. ROSENTHAL. A price below the retail price?

Mr. KELLOGG. Yes.

Mr. ROSENTHAL. Every peddler gets a price below the retail price. He is a wholesaler.

WITNESS. A wholesaler.

Q. So you gave a peddler by the name of Pistol a rebate below the retail price?—A. Yes, sir; I paid him that.

Q. Now, that was customary to all peddlers, wasn't it?—A. Not to all of them.

Q. Didn't you get that when you were peddling for the Standard?—A. I didn't peddle for the Standard. I peddled for myself.

Q. When you were peddling, and buying oil from the Standard, did you get that? A. I always bought at the best price I could.

9491 Q. Didn't you get it below the wholesale price?—A. Sometimes, from whomever I bought from, according to whoever would give me the best price.

Q. You got it below the wholesale price, didn't you?—A. At times; yes, sir.

Q. Now, did you give this man to whom you issued that ticket any rebate below that price?—A. P. Binns? Could I just ask a question of Mr.——

Q No, I want you to answer whether you gave that man a price below that price.—A. Now, if that is the man that had the store near that loop, I gave him a price.

Q. Did you give him the price or not?—A. He had an understanding, if that is the Binns that runs the two stores there. You see, I can't recall these names to my mind. It is something that went out of my mind, and I didn't pay any further attention to it until I was called here. If it is Binns that had the two stores in Lorain, then he had an understanding with R. D. Day, because he told me so positively.

Q. Were you present when he made that understanding?—A. I was not.

Q. How do you know anything about it, then?—A. He told me so.

Q. And you swear that this Binns told you that he had a rebate off this price of 9½ cents, do you?

Mr. ROSENTHAL. Oh, he hasn't sworn to that.

A. I don't swear to anything of the kind.

Q. What do you swear to?—A. I told you if that is the Binns that had the two stores in Lorain, that he told me that R. D.

9492 Day made him a special price.

Q. Is there any other Binns in Lorain?—A. I am not thoroughly enough acquainted with Lorain to know whether there are other Binns there or not.

Q. R. D. Binns was his name?—A. R. D. Day, and that Binns, I don't know what the initials are.

Q. You were not present when any of these arrangements were made?—A. No, sir; I was not.

Q. Then, what do you know about it?—A. I don't know anything about it, only that Mr. Pistol, as I told you. I paid him the money.

Q. And that is the only one you know of?—A. Positively. Mr. Binns told me that he did get a special price.

Q. Did you issue any other tickets at 9½ cents to other dealers?—A. Why, if that was the prevailing price I certainly issued them all the same way.

Q. Didn't you issue tickets all through the month of September and October at 9½ cents?—A. No; I don't think I did.

Q. You didn't?—A. I don't think I worked there over two months.

Q. Well, you worked there during part of September and October, didn't you?—A. I don't remember the exact length of time, but I worked there some time during those two months.

9493 JOSIAH HOWK, called on behalf of the defendants, being duly sworn, testified as follows:

Direct examination by Mr. ROSENTHAL:

Q. What is your name?—A. Josiah Howk.

Q. What is your place of residence and your occupation?—A. Sandusky, Ohio. I work for the Standard Oil Company.

Q. A man by the name of Lane testified in this case, or, rather, his testimony was read into the case, to the effect that a carload of oil

consigned to him at Huron was delayed by the Lake Shore for 72 days, and his employer, Mr. Sholes, started another car of oil on the road, which finally landed at Huron, Ohio; that when it landed there two or three Standard men in Huron for two or three days prior to that time had been there telling the merchants that if they unloaded or attempted to unload this car they would drive them, the merchants, out of business; they would rent a storeroom next to them and give away groceries, if necessary, until they had destroyed their business; the result being that the merchants sold this carload of oil to the Standard Oil Company for exactly what they paid to Lane and turned their bills over to the Standard, and the Standard Oil men paid them in cash and reshipped the oil to Cleveland. Now, when were you at Sandusky?—A. When did I go there, you mean?

Q. Yes, sir.—A. 1894.

Q. And how long have you been there?—A. Ever since.

9494 Q. In what capacity?—A. I am sort of local agent there.

Q. Where is Huron located with respect to Sandusky?—A. Huron is about twelve miles east of Sandusky.

Q. Is it in your territory?—A. Yes, sir.

Q. You have charge of that field?—A. Yes, sir.

Q. Where does Huron get its oil from?—A. From Sandusky.

Q. Sandusky is the main station?—A. Yes, sir.

Q. How is the oil delivered to Huron?—A. In tank wagon.

Q. And the men who haul the oil there are under you?—A. Yes, sir.

Q. The time that Mr. Lane represented this to be was 1903. Who was your tank-wagon driver that delivered oil to Huron at that time?—A. J. E. Williams.

Q. Did you ever go there?—A. Yes, sir.

Q. At that period?—A. Yes, sir.

Q. How often?—A. About once a week or ten days.

Q. What for?—A. To look after the business.

Q. Did anyone besides you and Williams go there in connection with the Standard Oil business at that time?—A. Not in the oil business.

Q. What do you mean by "not in the oil business?"—A. The lubricating men go there.

Q. That is, the Standard Oil may have had general salesmen out, engaged in the lubricating business?—A. Yes; that is what I mean. They had a lubricating man that used to go there.

9495 Q. But so far as the sale of refined oil or gasoline was concerned, you attended to that in Huron?—A. Yes, sir.

Q. And Williams was your tank-wagon driver?—A. Yes, sir.

Q. And, in addition to his going there and delivering oil, you visited Huron about once a week?—A. Yes, sir.

Q. How much of a town is Huron or was it at that time?—A. Oh, 1,800 to 2,000.

Q. Did you have many customers there?—A. Four or five stores, grocery stores, was all.

Q. And when you went there did you interview the merchants there?—A. Yes, sir.

Q. In connection with your business?—A. Yes, sir.

Q. Soliciting business and talking to them about business conditions?—A. Yes, sir.

Q. Did you have anything to do with an episode such as Lane testified to?—A. No, sir.

Q. Do you know of Williams having anything to do with it?—A. He did not.

Q. Could anything of that kind have happened while you
9496 were there without your knowing of it?—A. No, sir.

Q. Did you ever buy up any oil from merchants that had been shipped in from any other place or by any other person?—A. No, sir.

Q. Do you remember suffering any loss of gallonage around about that time at Huron?—A. Oh, yes; we lost some trade there, some gallonage.

Q. From time to time?—A. Yes, sir.

Q. And then you would get it back again?—A. Yes, sir.

Q. And then lose it again?—A. Yes, sir.

Q. Did you ever try to get any business away from Lane by price cutting or by buying up oil?—A. No, sir.

Q. Did you ever cut Lane's prices?—A. No, sir.

Q. Or buy up any oil that he had consigned or caused to be consigned?—A. No, sir.

9497 Cross-examination by Mr. KELLOGG:

Q. Who was Mr. Lane?—A. I never met the man.

Q. Was he selling oil there?—A. I have been told that that was the man's name that sold oil there. I never met the man.

Q. When?—A. Oh, I should think it was in 1902 or '3, along there.

Q. Is this Huron or Port Huron you are talking about?—A. Huron.

Q. Huron, Ohio?—A. Yes, sir.

Q. Where is Port Huron?—A. Port Huron is in the northern part of Michigan.

Mr. ROSENTHAL. That relates to another episode.

Q. How often did you say you went to Huron?—A. About once a week or ten days.

Q. What year was that?—A. Why, I think I have averaged about that ever since I have worked for the company.

Q. Once a week or ten days?—A. Yes, sir.

9498 SILAS W. HART, called on behalf of the defendants, being duly sworn, testified as follows:

Direct examination by Mr. ROSENTHAL:

Q. Mr. Hart, where do you live and what is your business?—A. I live in Minerva and my business is contractor.

Q. Where is Minerva?—A. South of Canton, 16 miles.

Q. Ohio?—A. Yes, sir.

Q. How big a town is it?—A. About 1,600, I should say.

Q. You are now a contractor?—A. Contractor and coal dealer.

Q. Were you ever in the oil business?—A. Yes, sir.

Q. When?—A. I was in the oil business as a company, Hart & Millner, before 1887.

Q. Were you ever employed by the Standard Oil Company at Minerva?—A. Yes, sir.

Q. When?—A. In 1887, at the first.

Q. In what capacity?—A. January 11, I think, was the first. I started the bulk station there.

Q. How long did you work for the Standard?—A. Three years and a month.

Q. You mean 1897, don't you?—A. That is right, 1897.

Q. Not 1887?—A. Did I say 1887?

Q. Yes.—A. 1897.

Q. From 1897 to 1900 you were there?—A. Yes, sir.

Q. Who is H. H. Hart?—A. H. H. Hart is a cousin of mine that was in the retail business there.

Q. Where?—A. In Minerva.

9499 Q. In what business?—A. The retail grocery business.

Q. This man Castle who has heretofore been referred to testified that H. H. Hart, of Minerva, received a rebate on Albaine oil to net 4 cents per gallon, in consideration of a 5-cent price to the consumer, for the purpose of meeting the competition of the Freedom Oil Company, the Freedom having already secured four dealers there. Are you familiar with that transaction?—A. I know nothing of it whatever.

Q. What did you do for the Standard when you opened the bulk station there? Did you start tank-wagon deliveries?—A. I started tank-wagon delivery in Minerva. The first trip I sold 40 gallons, I believe.

Q. And you built that business up for the Standard at Minerva, did you?—A. Yes, sir.

Q. Before that, had their business been a barrel business?—A. It was a barrel business; yes, sir.

Q. Did you sell at Minerva and the little towns in and around Minerva?—A. Yes, sir; I had twenty towns outside of Minerva.

Q. Who was Mr. Weston?—A. Mr. Weston was a grain and general warehouse man; did a grain and general warehouse business.

Q. Did he represent the Freedom Oil Company?—A. Yes, sir.

Q. Was that a company that was competing with the Standard at that point?—A. Yes, sir.

Q. Who was in the field first, the Standard or the Freedom?—A. I don't know that.

Q. At Minerva?—A. I don't know that.

9500 Q. Do you know anything about a price cut that was made by Weston, representing the Freedom Oil Company, at Minerva in the latter part of 1897?—A. I do.

Q. Tell me about it, please?—A. The first delivery I made there I think was 40 gallons, the next delivery was 70 gallons, and the next delivery, which was the third one, was 250. About that time I was getting the trade, and it seems as though they made a cut. Well, he did not feel very good toward me, and said that the Freedom was going to start an oil wagon, and then they could meet competition.

Q. Theretofore they had been selling by barrel delivery?—A. They had been selling by barrel; yes, sir. Well, the Freedom did not start the wagon, and they made a cut then of a cent a gallon.

Q. And what happened then?—A. Without authority—it was reported to me that there was a cut made of a cent a gallon. L. L. Hart, a grocery dealer, and there was another party there, L. H. Hart and Weston—it was reported that they had made a cut of a cent a gallon. I went to the people, some of the patrons, and found out that that was true, that they had made a cut. I then went to the dealers that I had been selling to, and I told them to meet the price.

Q. You told the dealers?—A. Yes, sir.

Q. Told them to meet the price?—A. And I would stand by them. And then after that the Standard approved of what I did.

Q. That is to say, what you did was to lower your price to the
9501 price already set by the Freedom?—A. By the Freedom—we met their price; yes, sir.

Q. And after that you say that your superior——A. Recognized what I had done.

Q. Recognized and confirmed what you had done?—A. Yes, sir.

Q. Do you remember the names of those dealers at Minerva——A. I know quite a good many of them.

Q. To whom you made that cut to meet the Freedom cut?—A. Well, it was all I had at that time. I had gained a good deal of the trade at that time, as they preferred to buy off of the wagon than by the barrel.

Cross-examination by Mr. KELLOGG:

Q. When did you say you commenced working in Minerva?—A. January 11, 1897.

Q. That was the first work you ever did for the Standard Oil?—A. Yes, sir; the first work.

Q. Had you previously been a peddler?—A. No, sir.

Q. Or dealer in oil?—A. As I say, Hart & Millner—I was a contractor and Hart & Millner were in the coal business, and they handled oil.

Q. At Minerva?—A. Yes, sir.

Q. For the Standard Oil Company?—A. Oh, no; they bought wherever they could buy it. I don't know that they bought any of the Standard Oil Company. In fact I don't know whom they did buy of.

Q. You say the Freedom Oil and the Standard Oil were both doing business there when you went to work for the Standard?—A. Yes, sir.

9502 Q. And the Freedom cut the price?—A. Yes, sir.

Q. What started the price cut?—A. As I say, on my first delivery I sold 40 gallons. The next delivery was 70 gallons, and the next was 250. My brother-in-law married Mr. Weston's daughter——

Mr. ROSENTHAL. He was the agent of the Freedom?

WITNESS. He was the agent of the Freedom, and he complained to me and thought that I was not doing quite right by getting the trade you know.

Q. Well, that was not all the trade the Standard had there?—A. The Standard did not have much when we commenced.

Q. Did not have much?—A. The Freedom had the best of it; yes, sir.

Q. How long afterward did the Freedom keep the best of it?—A. Why, as I say, the third delivery I ran in on them pretty strong.

Q. Did you cut the price to get that oil?—A. No, sir.

Q. Did you offer them anything?—A. No, sir; I never gave anybody anything. I had no instructions——

Q. How did you happen to get that away from the Freedom?—A. Well, the fact that I had some experience in the oil business, and the barrel delivery was leaky, and the people met with losses, both in the barrels and the loss of the oil, and they preferred the bulk delivery, because they got full measure, you know. We guaranteed them full measure.

Q. The Freedom was selling by barrels?—A. Barreled oil; yes, sir. They both of them were, before we commenced the oil business.

9503 Q. How did you know that the Freedom cut the price?—A. Just as I—they complained to me when we went to selling oil. Those two dealers complained especially. Well, there were more than two dealers. There were three dealers who did the cutting. The others complained to me, you know, that the price had been lowered and we would have to do something. Before I did it I got to work and investigated, and I found that what they told me was true; and without taking time to confer with the Standard Oil Company I met the price myself.

Q. Did it keep on going down?—A. Well, I don't know. There was some fight after that there, but I don't know——

Q. How low did it go down?—A. I could not say that. The fact of the matter is, that was about eight years ago, but I did not have any dates or anything of that kind.

Q. There was quite a fight after that, was there?—A. Yes, sir; that is, in Minerva. The outside territory, I think, was harmonious all the way through.

Mr. ROSENTHAL. They must have had a trust there, a combination between the Freedom and the Standard on the outside.

(The witness laughed.)

Q. The Freedom quit, did they?—A. Oh, no; I don't think so. The Freedom had a son-in-law of Weston, and he remained there.

Redirect examination by Mr. ROSENTHAL:

Q. The fight began when the Freedom made the cut?—A. That is it.

Q. And that is what started the fight?—A. Yes, sir.

9504 Q. And that was the fight?—A. That was the fight; yes, sir.

9505 F. B. SQUIRE, recalled as a witness on behalf of defendants, testified as follows:

Direct examination by Mr. ROSENTHAL:

Q. You are the same F. B. Squire who testified as a witness called by the Government at Cleveland, are you not?—A. Yes, sir.

Q. Where do you live, Mr. Squire?—A. Cleveland, Ohio.

Q. How many years have you lived there?—A. Continuously since 1885.

Q. What is your business?—A. Oil business.

Q. Connected with what company?—A. The Standard Oil Company of Ohio.

Q. What official position do you hold with the Standard Oil Company of Ohio?—A. At present, vice-president.

Q. With your main offices at Cleveland?—A. Yes, sir.

Q. And you are in charge there, are you?—A. Yes, sir.

Q. How long have you been vice-president?—A. I should say about ten years.

Q. I show you a portion of petitioner's Exhibit 826, purporting to be a form used by the Standard Oil Company of Ohio in connection with competitors' shipments. It was introduced by the Government when C. J. Castle was on the witness stand. State whether or not that form has been in use by your company in that connection.—A. It has.

Q. What have you to say with respect to your practice or the practice of your company in getting information by that means

9506 during the years that you have been connected with the Company. What is your practice in that regard, and what has it been?—A. It has been our practice to have our field people, consisting of our traveling men, local station men, and whoever might be connected with the company in the marketing of its products, to report back to the main office any information they might gather in any legitimate manner, of sales made to customers, reporting reasons as far as they were able to give them; and this form was used frequently for that purpose. It was also used by the main station for reporting to the managers the information which had been given to the main station by the local people, with the expectation that the manager who was responsible to the main station for the business would investigate and find out whether the business had been lost through any negligence on the part of the local people or the salesmen, such as poor service, false representations, in fact anything that might have created an ill feeling on the part of the customer of sufficient importance to warrant him to make a change. It was expected that the man responsible for the business would make

a personal investigation and report back to the main office what he found, so that if any injustice had been done it would be corrected and the customer regained.

Q. In other words, you endeavored to get all the information that you could along those lines which you regarded as perfectly legitimate?—A. Yes, sir.

Q. Castle testified that it was the habit of the Standard Oil Company of Ohio to obtain lists of the tank-wagon customers who
9507 were purchasing oil or oils from competitors of the Standard, by spotters, and that such a system prevailed. What have you to say about that?—A. It is not true. Every tank-wagon driver has his own route and he currently and constantly canvasses the same trade, frequently daily. Therefore he knew every customer on his route.

Q. That is, he knew every customer that he had?—A. He knew every customer, whether he supplied them or whether others supplied them. He was so well acquainted with them that he knew them by their surnames.

Q. How much of a territory would a tank-wagon driver cover ordinarily? How many people would he attempt to canvass?—A. That would depend on circumstances. I should say an average of 25 to 30.

Q. In the large cities or in the rural communities?—A. In large cities.

Q. I think Castle's testimony was limited to large cities in that regard. So that one tank wagon in a large city would not undertake to call upon more than 25 or 30 customers?—A. Whatever he could take care of on his route. If he could take care of more, that would develop itself, and his route was increased.

Q. Was that a route that he took at random, or was it a regular route traversed by him day after day?—A. As I have said, it was a regular route that he canvassed day after day.

Q. And he naturally would know every purchaser of oil, therefore, on that route?—A. Absolutely.

Q. And those that he did not sell, he would know were sold by others?—A. Yes, sir; and any information we wanted on that
9508 line, we would receive from him.

Q. So that it would be wholly unnecessary, I take it, in view of that method of doing business, which was your method, to have anything in the nature of spotters following the tank wagons of your competitors?—A. Absolutely unnecessary, and I believe you will find that Mr. Castle admitted that on his cross-examination.

Q. Mr. Castle also seemed to regard it as a criminal offense, or something almost as heinous as a criminal offense, to get information of competitive shipments from deputy oil inspectors or from oil inspectors. What have you to say with respect to that?—A. The only thing I can say about the question of inspection is that the record is a public one.

Q. What record?—A. The State inspector's record and the deputy's records.

Q. That is, you have in the state of Ohio a State oil inspector——
A. Yes, sir.
Q. Who has deputies?—A. Yes, sir.
Q. Scattered throughout the state?—A. Yes, sir.
Q. And that State inspector and his deputies maintain public records, do they——A. As far as I know.
Q. That are open to anyone who comes to see?—A. Yes, sir; that is according to the statute.
Q. And those records may be searched by the Standard Oil Company for the purpose of ascertaining shipments or sales made by competitors, or, vice versa, by competitors for the purpose of ascertaining sales made by the Standard?—A. Yes, sir.
Q. Is the city of Oberlin in your territory?—A. We have a
9509 station, I believe, at Oberlin, or else it is supplied from Lorain.
Q. It is within your general jurisdiction?—A. Our stations are all limited to the State of Ohio.
Q. And Oberlin is in the State of Ohio?—A. Yes, sir.
Q. The local agent there is a subordinate employee of the Standard Oil Company of Ohio?—A. Yes, sir.
Q. Castle testified when he was on the stand that you established at Oberlin bogus independent peddling wagons, that cut the price for the purpose of meeting the competition of your competitors. What do you say with respect to that?—A. I heard him make that statement. It was the first time that I had heard it or had any knowledge of it.
Q. Did you, as a matter of fact, establish any peddlers or peddler in the city of Oberlin for any such purpose?—A. Not to my knowledge.
Q. Could it have been done without your knowing of it?—A. Hardly.
Q. What is that?—A. Hardly.
Q. What did Castle have to do with that territory? Was he then an employee of the Standard Oil Company?—A. He was; yes, sir.
Q. He undertook to testify, or did testify, that this peddling concern that you started in that way cut prices to as low as 6 cents. What is the fact in that regard?—A. I know of no cut price that was made.
Q. In Oberlin?—A. At Oberlin. At that time I find we had about 70 per cent of the dealers and all the peddlers.
9510 Q. That is, at the time covered by Castle's testimony relating to the city of Oberlin, the Standard Oil Company of Ohio was then selling about 70 per cent of all of the dealers in that town?—A. And all the peddlers.
Q. And all of the peddlers?—A. Yes, sir.
Q. Those peddlers were men who, like the dealers, were selling to the consumers?—A. Yes, sir.
Q. Do you remember what the price was in Oberlin at that time? [Witness refers to a memorandum.]
Mr. KELLOGG. At what time?

Mr. ROSENTHAL. The time covered by Castle.

Mr. KELLOGG. What time was that?

Mr. ROSENTHAL. I have forgotten that. The witness knows.

A. I find that our tank-wagon prices from the years 1892 to 1898 were as follows——

Q. At Oberlin?—A. Yes, sir. March 13, 6 cents.

Q. March 13 of what year?—A. 1895; October, 1895, 7 cents; February, 1896, 8¼; July, 1896, 7; November, 1896, 7¼. During the year 1898 it was 7¼; April 9, 1898, 6 cents; May 6, 1898, 6½; in September, 1898, 7¼.

Q. I think that covers the period testified to by him. For you to have put in a peddler or a peddling wagon there and have made any radical cut in price to the consumer would have had what effect upon your business which you had with the peddlers and the dealers at that point?—A. It would have demoralized the situation and forced us to have protected them in the price, or lose the business.

9511 Q. That is to say, you had 70 per cent of the trade of the dealers, and the trade of all of the peddlers, and for you to have cut the price by putting in a peddling concern would have meant a complete demoralization of trade at that point, wouldn't it?—A. And the chances of entire loss of the entire business.

Q. Well, did you do that?—A. No, sir.

Q. This man Castle, who was the star witness but one for the Government at Cleveland, who was he, anyway? Was he ever in the employ of the Standard?—A. He was.

Q. When?—A. He entered the services of the Standard Oil Company in 1885 and was discharged in September, 1900.

Q. Why was he discharged?—A. Because he persisted in making special arrangements contrary to instructions.

Q. Did he report those arrangements?—A. Not until he was forced to.

Q. Do you mean until he was discovered?—A. Yes, sir.

Q. And then what did you do?—A. I recall the particular case which he testified to in regard to that report that was made. Statements had been made that he was making special arrangements contrary to instructions, and no one seemed to know just what he was doing. Instructions were issued to have him come to Cleveland and make a full report of all special arrangements that he had made, that we might see just what was done, and determine what was best to do under the circumstances.

Q. And was it in response to that request that he furnished Mr Hoag with a part of Exhibit 829, being the letter dated April 26, 1898, addressed to J. W. Hoag?—A. Yes, sir; it was.

9512 Q. Before he made that report did you, or Mr. Hoag, or any one connected with your company, know that he had made any such arrangements as are indicated in that report?—A. We did not. It was contrary to instructions, and his duties had been restricted by reason of similar things which had transpired before.

Q. You say that his duties had been restricted because he had been detected doing similar things before. What do you mean by that?—A. He was a general man, looking after lost trade with Mr. Goodwillie, and in that capacity he was expected to investigate and report the reasons why business was lost, and not make special arrangements to regain the business. That was expected to be done by the manager, after investigating the facts, to find whether a reduction in the price was necessary or wise.

Q. In order to recover the business?—A. In order to recover the business; and finding that we could not hold him, that he would persist in making those special arrangements, we finally restricted him to the Youngstown Valley, and that is what that report covers.

Q. After you received that report, what did you do?—A. Instructed him that it must stop, and that no further arrangements of that character should be made, but that any lost trade should be reported back in the regular way that the man in charge might decide what was best to do.

Q. Did he give you any reasons why he had made those cuts?—

9513 A. Yes, sir; he always stated that the reason was to meet the competitor's price, that he could hold the trade on an even basis, because we were always on the ground to take care of the customers.

Q. In that connection did you secure an affidavit from Mr. H. H. Hart, of Minerva, Ohio?—A. Yes, sir.

Q. Have you that affidavit with you?—A. I have it, but not here.

Q. Will you produce it, please? We will have to pass that. The affidavit is at the office. Mr. Squire, have you read the Stark letters that were offered as exhibits in this case, running from Petitioner's Exhibit 831 to 834, inclusive?—A. Yes, sir.

Q. They bear date of October, 1897. What do you know about the New American Oil Company and Mr. Stark and the origin of those letters? What was the New American Oil Company?—A. Prior to our purchase?

Q. Yes.—A. It was a partnership under the trade name of the New American Oil Company, for the purpose of handling oils.

Q. The purchase of oils?—A. Purchasing and selling petroleum products.

Q. Located where?—A. Mansfield, Ohio. Outside of the city of Mansfield their business consisted of barrel sales.

Q. And in Mansfield?—A. My impression is that they ran a small wagon.

Q. What was Stark's connection with that company, if he had any?—A. He and Mr. Schall were the owners, the partners.

Q. Was it purchased by the Standard Oil Company?—A. It was.

Q. Was it purchased by the Standard Oil Company?—A. It was.

9514 Q. About when?—A. (Witness refers to a memorandum.) I thought I had that information here, but I do not find it.

Q. Have you a note 5 there?—A. I do not find it.

Q. Do you remember about when—sometime subsequent to 1897?—A. I should say it was about 1897.

Q. About 1896?—A. I am not clear as to that.

Q. These letters, as you observe are dated October, 1897. It was some time prior to that——A. just prior to that.

Q. That you purchased it?—A. It was prior to that.

Q. Why was it purchased by the Standard?—A. Mr. Stark came to us several times to know if we would purchase the property, claiming that he and his partner were not agreed, and that while it was a profitable business, nevertheless they had reached the point where they had decided to separate. At first we declined to consider it, but finally we purchased it.

Q. Now, I understand you to say that the business of the New American Oil Company, outside of the city of Mansfield, was a barrel business. Is that correct?—A. Yes, sir.

Q. Did you continue to operate it as the New American Oil Company, and if so how long?—A. I will answer yes, that we operated it and continued for I should say four years.

Q. Under the name of the New American Oil Company?—A. Yes, sir.

Mr. Kellogg. How long did you say? I can't hear you.

A. About four years, under the name of the New American Oil Company.

Q. Who was in charge?—A. Mr. W. W. Stark.

9515 Q. One of the men from whom you had purchased the business?—A. Yes, sir.

Q. Did that company have an organization of its own at the time you purchased it?—A. It was a copartnership at the time we purchased it.

Q. Did it have a field force—wagons out and salesmen out?—A. It had some salesmen.

Q. Salesmen out; and did you endeavor to retain the business which they had theretofore acquired?—A. It was represented to us by Mr. Stark that there was a profitable business which they were doing, that they supplied a trade that preferred to buy barreled oil. We knew——

Q. What kind of trade were you building up? What was your trade at that time, largely?—A. We knew that to be a fact, through our tank-wagon system, that there were some buyers who preferred, early in the history of the tank-wagon business, to buy barreled oil, and it was our expectation, and we felt that we had a right to operate the New American for whatever good will existed in it as long as we could do so at a profit, with the hope that we might be able to convert the barrel business into a tank-wagon business. Efforts were made along those lines.

Q. Was that effort made by you?—A. Yes, sir; and I think——

Q. With any degree of success?—A. Yes, sir.

Q. Did you have any trouble with Stark on that account?—A. Yes, sir; we had considerable trouble with Mr. Stark. He was aggressive;

wanted to make a showing, which was very natural, and in his
9516 efforts he naturally took trade away from us—from the tank wagon.

Q. That is, in his efforts to build up the barrel business of the New American after you had purchased it, he being at the head of it as your employee, he was so aggressive that he was taking away your tank-wagon business?—A. Yes, sir.

Q. What happened then?—A. We found that he was making cut prices to do it, and one of the letters which he wrote—there is an abstract in that letter which practically verifies the position.

Q. Is that the letter dated October 21, 1897?—A. I think that is the letter.

Q. I show you a copy of that letter of October 21. Will you be good enougt to point out that portion of it to which you have just now referred, and read it?—A. The abstract that I referred to reads as follows: "On the other hand, it has all along seemed to me that you would prefer that trade would go to the Independent rather than we should chance to put in a gallon where there was a possibility that you might have been able to place it." In other words, he meant to convey the idea that——

Mr. KELLOGG. That is objected to. The thing speaks for itself.

Q. Go right ahead and give us your interpretation of it.

Mr. KELLOGG. I object to that as incompetent.

Q. "In other words," you started to say——A. In other words, he meant to——

9517 Q. What was the idea that that conveyed to you?—A. It conveyed the idea to us that he felt that he was——

Mr. KELLOGG. That is objected to upon the same ground.

A. That he should be privileged to take any business he could secure by making cut prices to do so. This we objected to, and it was on account of this fact that we finally discontinued the New American entirely and took our chances of securing the business for our tank wagons.

Q. It was on account of what that you discontinued?—A. His aggressiveness and constant efforts to secure the privilege of making cut prices to take whatever business he could get.

Q. That finally induced you to discontinue the New American?—A. We finally decided to discontinue the New American and take our chances in securing the business for the tank wagons.

Q. Did you discontinue?—A. Yes, sir.

Q. Mr. Castle, in addition to his testimony concerning the New American Oil Company, also testified that the Standard Oil Company established or acquired a business at Toledo, Ohio, under the name of the Toledo Oil Works for the purpose of marketing oil in that vicinity solely to competitors. What is the fact, Mr. Squire, with regard to the Toledo Oil Works, its acquisition and establishment?—A. The situation which I have explained in regard to the New American was worked out in exactly the same manner by the

Toledo Oil Works, which was operated and managed by Mr. Kirk. He was just as aggressive as Mr. Stark, and instead of confining his business to barrel trade, which preferred at that time to buy
9518 oil in that manner, he sought everything, and made cut prices whenever it was necessary to take trade from the tank wagon.

Q. From your tank wagons as well as other tank wagons?—A. Yes, sir.

Q. With what result?—A. We wound it up, the same as we did the New American.

Q. Why?—A. For the same reason.

Q. You found it was injuring your business as a whole, did you?—A. Yes, sir.

Q. Was it true that these companies were established by the Standard for the sole purpose of meeting competition?—A. No, sir; they were already established. We simply acquired them by purchase.

Q. And after acquiring them by purchase, you for a certain length of time sought to hold the business which they had developed?—A. We felt that if there was any good will there, we were entitled to it.

Q. You had paid for it?—A. Certainly.

Q. And you felt that you were entitled to it if it was there?—A. Yes, sir.

Q. And the business was a business that did not compete to any extent with your tank-wagon business?—A. Not if properly confined.

Q. If properly confined; and when you discovered that you could not confine it to merely barrel competition, you sold out those businesses. Am I right about that?—A. No; we discontinued them.

9519 Q. Or discontinued them. Then it is not true, as I understand you, as testified to by Castle, that those companies were maintained by you for the express purpose of killing the other fellow?—A. No, sir.

Q. As I understand you, they were maintained by you because for the time being you thought there was money in maintaining them and conducting them?—A. We did.

Q. As barrel businesses?—A. Yes, sir.

Q. I presume that you also endeavored, did you not, to convert this barrel trade into a tank-wagon trade? Was that done by you?—A. Practically; yes, sir.

Q. Was that endeavor made?—A. Yes, sir.

Q. Was it your purpose, among other things, to ultimately, if possible, have all of the business educated up to a point where it would receive its oil from tank wagons?—A. That would go without saying.

Q. Any place except in court. There we have to say these things. Castle also testified that he had seen oil inspectors visit the offices of the Standard Oil Company in Cleveland. What do you know about that?—A. I guess that is true. The state inspector would come to verify his reports from our books. He demanded that.

Q. The oil inspectors frequently visited you?—A. Yes; made a demand, and we never refused it.

Q. For what purposes?—A. To examine our books for our sales, to see what our total sales were for the month, to see how they agreed with the inspection.

Q. I see; and that they had the right to do under the Ohio statute?—A. I don't know whether they have the right. We never objected.

Q. They did it, at all events?—A. They did it; yes, sir.

Q. They insisted upon calling at your offices frequently?—A. They might call once a month.

Q. Do you know when the Cleveland Oil Delivery Company undertook first to make a delivery of oil to consumers directly?—A. The latter part of 1903.

9520 Q. Prior to that time had any similar attempts been made to introduce the same method of delivery in other localities in the State of Ohio?—A. Yes, sir.

Q. What was that method of delivery? Why was it resorted to?

Mr. KELLOGG. What are you reading from?

WITNESS. A memorandum.

Mr. KELLOGG. Let me see it, please.

(The witness handed papers to Mr. Kellogg.)

Mr. ROSENTHAL. Show him particularly the part that you are reading from—the last paragraph of that page. You see, Mr. Kellogg, that I may wish to put it all in evidence. I give you notice of that now. Any memorandum that you take from a witness of mine I reserve, under the rules of evidence, to put it all in.

Mr. KELLOGG. You have a wonderful knowledge of very startling rules of evidence [throwing the papers back on the table before the witness].

Mr. ROSENTHAL. Well, I observe you don't hold on to the document very long after I announce the theory.

Mr. KELLOGG. I object to the witness reading from documents.

Mr. ROSENTHAL. The witness is not reading from a document. He has a memorandum which he is referring to from time to time, a memorandum of dates and figures, which you just had in your possession.

Mr. KELLOGG. It is more than that. Go ahead.

WITNESS. We started the Home Oil Delivery at Warren, Ohio, in 1901; during 1901 and 1902 at Canton, Youngstown, Niles,

9521 Garrettsville, Ashtabula, Mansfield, Massillon, Kent, Ravenna, and Newark. About this time we had reached a period in our history where it was felt that possibly we could take a step nearer the consumer and save him money. In the early history of the business the refiner sold his oil exclusively to jobbers; these jobbers sold to retailers, and the retailers to the consumers. It was early found that the jobbers' profit could be saved to the consumer, and the refiner sought the retail merchant, and in the course of time this step evolved the tank-wagon system.

Q. That forced out barrel delivery?—A. Yes. In the course of time this step evolved the tank-wagon system. As I said, we reached a point where it was felt that possibly another step nearer the con-

sumer might be taken and save him money. It was learned that the retailer was making from 50 to 100 per cent profit, and it was believed that we could save one-half of this to the consumer. To make this move required a great deal of care and caution, so that the trade which we were supplying might not be antagonized; also for the purpose of developing any impracticable features which in the end might prove it was not the proper course to pursue. Therefore a few towns were selected to make the experiment, and the towns quoted above were used for the purpose. We selected more than one town for fear that possibly an experience in one town might not be a criterion for another. We took what we believed to be a fair average in a certain section. Our experience in the early history of this move taught us that our competitors damaged our oil.

Q. What do you mean by that?—A. Making it offensive in
9522 odor and mixing poor oil with ours, which naturally made us the target of complaints. In studying this question to see what could be done to prevent it, we found the square can which could not be filled by a patented device. But unscrupulous competitors evolved a right-angled funnel to fill the can, but it took so long that it was an impracticable proposition. So they resorted to a more practical one—that of punching a hole in the top of it. But with proper care on the part of the consumer it protected them against such practices. The adoption of a red-top can for gasoline and the ordinary tin for the oil was a safeguard to the consumer, as, with ordinary care, it prevented the housewife from filling her oil stove with gasoline or her lamp with gasoline. These features of safety were such a factor that it gave our peddlers considerable prestige, and consequently antagonized competitive peddlers. But a very serious obstacle soon developed itself, namely, the giving of credit. The storekeeper gave credit to his customers, whereas with us they paid cash. This became such a factor as to make it almost impossible to sell the large quantity which was sought through this medium. Various ways were tried to see if it could not be overcome—like the sale of tickets by milkmen—but it did not work. Then credit was given, but our loss by bad debts was in itself sufficient to practically kill the enterprise. In addition to this we discovered that the expense due to wear and tear of the equipment was great. On account of loaning the cans to the consumer, being our property and not theirs, they did not take proper care of them. More or less
9523 were damaged by carelessness and some were lost entirely. Therefore it was decided, after a very careful canvass of the experience of the different towns, to abandon the idea. Gradually from point to point the equipment was withdrawn, with the exception of two, namely, Youngstown and Cleveland, which have always been known by refiners as peddling points, due to the fact that a number of peddlers had been in existence there for years and the consumer had become familiarized with that means of delivery.

Q. You retained your can-peddling business at Cleveland and Youngstown on that account?—A. Largely.

Q. The other places that you named, when were they discontinued? Have you dates on your memoranda showing that?—A. We discontinued at Kent, Ravenna, and Garrettsville in 1903; at Massillon and Niles in 1904; at Ashtabula, Mansfield, and Newark in 1905.

Q. Do you know when Mr. Castle started in business for himself in Cleveland, doing a tank-wagon business with dealers and peddlers?—A. About January 1, 1901.

Q. What was the price of oil—the tank-wagon market price—in Cleveland in January, 1901?—A. (After referring to memorandum.) 6½ cents.

Q. What was the lowest price that had been reached during the preceding year of 1900?—A. 4½ cents.

Q. When was that?—A. September 11.

Q. Four months before Castle began doing business?—A. Yes, sir.

Q. What was the price in December, 1900?—A. 5½ cents.

9524 Q. So that in September it was 4½, in December 5½, and about the time he began doing business it went to 6½?—A. Yes, sir.

Q. Have you the range of prices in 1901 at Cleveland?—A. Yes, sir.

Q. What was that, please?—A. January 19, 6¼; February 15, 6½.

Q. It started January 9, 1901, at 6½?—A. Yes, sir.

Q. January 19——A. It was 6¼; February 15, 6½; July 22, 7 cents; October 1, 7½; October 23, 7, and remained that price for the balance of the year.

Q. Give me the range for 1902.—A. March 20, 7½; August 12, 7; October 6, 7½; October 30, 8; November 12, 8½; December 8, 9, and remained that for the balance of the year.

Q. So that you have given us the range of prices now during the two years immediately succeeding the time when Castle started as a competitor in Cleveland?—A. Yes, sir.

Q. And that shows, with but one or two exceptions, a constant upward trend in the market price, does it not?—A. Yes, sir.

Q. What were those changes that were made during those two years due to?—A. Advance or decline in crude, or cut prices made by Mr. Castle.

Q. Did you ever initiate a cut against Castle?—A. No, sir.

Q. By whom, as between you and the Columbia Refining Company, was the cut always initiated?—A. By the Columbia Refining Company. That is, outside of natural advances or declines due to crude oil.

(Papers marked "Defendants' Exhibits 101-A to 101-M," inclusive.)

9525 Q. I show you defendants' exhibits marked 101-A to 101-M, both inclusive, being, with two exceptions, a series of letters. Please state generally, first, what they are.—A. Giving information relative to cut prices.

Q. Where did you get them from?—A. From the files.

Q. The files of the Standard Oil Company?—A. Yes, sir; Standard Oil Company of Ohio.

Q. Please state if you know the signatures attached to those various letters.—A. I recognize Mr. Caywood.

Q. I suggest that you look them all over and then answer the question generally whether you recognize all of the signatures attached to those written letters.—A. [After looking at the papers.] I do not recognize them all.

Q. Which do you not recognize?—A. Mr. E. R. Pratt.

Q. Who is Mr. E. R. Pratt?—A. I don't know him.

Q. Who else?—A. Mr. D. W. Peterman.

Q. Are those the only two?—A. Yes, sir.

Mr. ROSENTHAL. The two signatures which the witness does not recognize, namely, D. W. Peterman and E. R. Pratt, have been marked Defendant's Exhibits 101–D and 101–I. I withdraw those temporarily.

Q. Now, I understand you to say that you recognize the signatures attached to all of the other letters as being the signatures of the men whose names purport to be signed thereto?—A. Yes, sir.

Q. And they were in the letter files of the Standard Oil Company of Ohio?—A. Yes, sir.

9526 Q. Received and transmitted in the regular course of business at the times when the letters purport to have been written?—A. Yes, sir.

Q. In addition to the letters contained in this exhibit, I show you two statements or bills purporting to be bills of the Columbia Refining Company, marked Defendants' Exhibit 101–E and Defendants' Exhibit 101–F. Please state where you obtained them, if you remember.—A. I do not remember.

Mr. ROSENTHAL. I will withdraw temporarily 101–E and 101–F.

Q. You may state whether, among other things, it was by reason of these letters received by the Standard Oil Company from time to time that reductions in prices were made.—A. It was, after they made an examination and found that the information was true.

Mr. KELLOGG. That is objected to as incompetent.

Q. That is, after having investigated the cases referred to in these letters and ascertaining that the statements therein made were true; that from time to time brought about reductions of prices, as heretofore stated by you, to meet the prices reduced or cut by your competitors?—A. Yes, sir.

Mr. ROSENTHAL. I now offer these letters in evidence, marked respectively 101–A, 101–B, 101–C, 101–G, 101–H, 101–J, 101–K, 101–L, and 101–M.

Mr. KELLOGG. They are objected to as incompetent, each one of them. On the admissibility of these letters may I ask the witness a question about the signatures?

Mr. ROSENTHAL. Certainly.

Mr. KELLOGG. These are signed, each one of them, by your agents, are they?

9527 WITNESS. They are signed by the man whose name is signed there.

Mr. KELLOGG. The man in each case was your agent?

WITNESS. He was in our employ.

Mr. KELLOGG. In your employ?

WITNESS. Yes, sir.

Mr. KELLOGG. At the time he wrote the letters?

WITNESS. Yes, sir.

Mr. KELLOGG. And still is?

WITNESS. I know one is dead.

Mr. KELLOGG. One is dead, but with that exception they are still your agents?

WITNESS. With that exception, they are still in our employ.

Mr. KELLOGG. They are objected to as incompetent. Go ahead, Mr. Rosenthal.

Mr. ROSENTHAL. Do you simply object to them upon the ground that they are incompetent?

Mr. KELLOGG. And hearsay evidence. They are unsigned declarations of their own agents.

Mr. ROSENTHAL. Those letters are offered, not as evidence of the cuts, but merely for the purpose of showing what evidence it was that induced the Standard Oil Company of Ohio to reduce its prices from time to time—as illustrative of its reasons for making its reductions.

Q. During the time subsequent to January, 1901, when Castle started in business in Cleveland, from that time on to this, have you made any special prices there by rebating, or special dis-

9528 counts, or otherwise, to the tank-wagon trade?—A. Absolutely nothing but the regular open-market price.

Q. Whatever price your oil has been sold for at Cleveland has been an open-market price?—A. Yes, sir.

Q. Known to the market?—A. Yes, sir.

Q. And that price has been the price at which the oil was sold to all the trade there?—A. Yes, sir.

(An adjournment was here taken until the morning of Tuesday, September 22, 1908, at 10.30 o'clock.)

9529 ROOM 715, CUSTOM-HOUSE, NEW YORK CITY,
Tuesday, September 22, 1908, 10.30 a. m.

The hearing was resumed before the special examiner, Hon. Franklin Ferriss, at the above time and place.

Present: On behalf of the petitioner, Mr. Frank B. Kellogg, Mr. Charles B. Morrison. On behalf of the defendants, Mr. Moritz Rosenthal, Mr. F. L. Crawford, Mr. Douglas Campbell, Mr. W. Cleveland Runyon.

F. B. SQUIRE recalled, and his direct examination resumed:

By Mr. ROSENTHAL:

Q. What is the practice, Mr. Squire, with reference to giving oil peddlers a price lower than the tank-wagon or storekeeper's price?—

A. It is a common custom to give them one-half cent per gallon for drawing their supplies from the station.

Q. That is, they come to your station and draw their own supply, or get the supply at the station?—A. Yes, sir.

Q. Instead of having it hauled to them, as does the tank wagon?—A. Yes, sir.

Q. And for that reason the custom of the trade is to give them a half cent margin?—A. Not only by us but by others, that same practice is pursued.

Q. Mr. Castle has been for some years and is now a competitor, is he not?—A. Yes, sir.

Q. He is at the head of the Columbia Refining Company?—A. Yes, sir.

9530 Q. What experience have you had with him during the years that you have covered here in your testimony, as a competitor, in so far as his hiring away from you your tank-wagon drivers is concerned?—A. (After referring to a memorandum.) On January 3, 1903, Mr. Castle hired a tank-wagon driver by the name of F. Fulcher away from us.

Q. Do you know any of the circumstances? Had Fulcher been an old tank-wagon driver?—A. Mr. Fulcher had been a tank-wagon driver for a long time in the employ of the Standard Oil Company.

Q. What others?—A. In April, 1903, he hired away from us another tank-wagon driver by the name of E. C. Ritchie, who also had been in the employ of the company for a long time. In January, 1904, he engaged another tank-wagon driver from us, or he took another tank-wagon driver from us, by the name of L. Dubsky. This man was an extremely valuable tank-wagon driver, as he had a very strong following among the Bohemian trade, which Mr. Castle was familiar with. In May, 1906, he took from us a Mr. J. A. Jeffrey. Those are the men that he engaged at Cleveland.

Q. Do you know of any others that were approached by him for the purpose of hiring them away from you?—A. Yes, sir; a Mr. Harry Connelly.

Q. Any others?—A. It was currently reported that he was making efforts to secure tank-wagon drivers by giving them an increased rate of pay.

9531 Q. When these tank-wagon drivers went into Castle's employ, what routes did they follow for him?—A. They canvassed their own regular route which they had been working for us.

Q. Do you know whether they advised the customers of their change in employment?—A. I understand that no such advice was given.

Q. Mr. Castle in his testimony complained of the treatment that his company received from the Standard Oil Company at Lorain, Ohio, and he undertook to testify that he established a station there in October, 1904; that at that time the price of Standard Water White was 10 cents wholesale, the established retail price 13 cents; and he

testified that after he came into the Lorain field the Standard changed its price in about a week, reducing the price 2 cents a gallon wholesale, and stipulating the retail price to be 10 cents. He further testified that he followed down the prices made by the Standard until they were so low that he could not do any business at a profit and moved away from Lorain, leaving the field to the Standard. Will you please state the entire history of that Lorain competition as you know it? Let me have, if you please, first, the Lorain prices beginning in March, 1904.—A. March 3, 1904, the tank-wagon price for Water White oil was 10½ cents. On April 14, 1904, it was 10 cents.

Q. Do you know what that decline was due to?—A. To a decline in crude oil, both of them. June 10, 1904, the price was 9½ cents. Do you wish me to give the information relative to the cause in each case?

9532 Q. Yes.—A. Due to a decline in crude. September 2, 1904, on account of an advance in crude, the market advanced to 10 cents. December 17, 1904, on account of a decline in crude, the market declined to 9½ cents. On January 10, 1905, on account of Castle cutting prices, and we receiving positive proof of the fact that he was making an 8-cent market, and on account of a decline in crude, combined with the cutting of Castle, the tank-wagon price was reduced to 8 cents. February 3, 1905, the price was 7½ cents. The decline was due to the decline in crude.

Q. What is the lowest point that it reached in 1905?—A. April 22 it reached 7 cents, due to a reduction in the price of crude.

Q. Now, give us the movement since April 22, 1905, at Lorain down to the present time.—A. September 18, 1905, on account of an advance in crude, the market was advanced to 7½ cents. November 9, 1905, on account of an advance in crude, the market was advanced to 8 cents. April 16, 1906, on account of advance in crude, the price was advanced to 8½ cents. August 9, 1906, on account of a decline in crude, the market was reduced to 8 cents. August 20, 1906, on account of a decline in crude, the market was reduced to 7½ cents. March 21, 1907, on account of an advance in crude, the price was made 8 cents. January 24, 1908, the price was made 7½ cents.

9533 Q. Have you a refinery at Cleveland?—A. Yes, sir.

Q. I observe that the tank-wagon price of oil at Cleveland has been uniformly low. Is that due to the fact that there are no freight charges to be paid?—A. That has some bearing.

Q. Please state whether the Standard Oil Company ever gave any rebates or discounts of any kind to dealers at Lorain during the time of the existence of the competition of the Columbia Refining Company.—A. Absolutely none.

Q. Do you know of any rebates that were given by the Columbia Refining Company at Lorain, say, in the early part of 1905?

Mr. KELLOGG. That is, do you know of your own knowledge?

A. (After referring to memorandum.) It was currently reported that they were making reductions in the price.

Mr. KELLOGG. That is objected to as hearsay.

Q. Mr. Castle also testified that he established a station at Akron, Ohio, but that he was unable to compete with you there, because you gave rebates to certain people who had manifested a disposition to buy from him. What are the facts in regard to that?—A. We gave absolutely no discounts whatever to any trade at that point during that period.

Q. Or any rebates?—A. No, sir.

Q. Does the Columbia Refining Company still do business at Lorain?—A. I believe not.

Q. Now, as I recall it, Mr. Squire, the lowest price that was reached in Lorain during the period of heaviest competition, in April, as I remember it, 1905, was 7 cents, was it not?—A. That is right, sir; on our Water White oil.

9534 Q. What is the present price, without any competition there?—A. I believe it is 7½ cents.

Q. You not only had a business at Akron, but there were some suburbs of that town, were there not, by the name of Barberton and Cuyahoga Falls?—A. Yes, sir.

Q. They are situated in the suburban district to Akron, are they not?—A. Yes, sir.

Q. Is it true that when Castle sought to establish a business, the business of the Columbia Refining Company at Akron and in these suburbs, the Standard Oil Company thereupon at once initiated such a reduction in price and gave such rebates and discounts that he was eliminated from that field?—A. It is not true.

Q. As I understand it, he went to Akron the latter part of the year 1904, or the beginning of 1905, did he not?—A. He started in Akron in 1904.

Q. The latter part of the year?—A. I am unable to say.

Q. Well, I think that is the testimony in this record. What was your price in December, 1904, at Akron and these suburbs of Akron?—A. Our price December 17, 1904, for Water White tank-wagon oil was 9½ cents per gallon.

Q. Now, will you give me the price movement at Akron and those suburbs that I have named, from December, 1904, down to the present time, and the reasons for any advances or declines.—A. January 10, the price was reduced to 9 cents, due to a general decline in the markets.

Q. When you say a general decline, you mean a decline

9535 throughout your entire field?—A. Yes, sir. February 3, 1905, it was reduced to 8½ cents, due to a general decline throughout the State. April 22, 1905, it was reduced to 7½ cents for the same reason. September 18, 1905, it was advanced to 8 cents for the same reason. November 9, 1905, it was advanced to 8½ cents for the same reason. April 6, 1906, it was advanced to 9 cents for the same reason. June 11, 1906, it was declined to 8½ cents for the same reason. August 9 it was declined to 8 cents for the same reason. August 20 it was declined to 7½ cents for the same reason. March 21, 1907, it was ad-

vanced to 8 cents for the same reason. January 24, 1908, it was declined to 7½ cents for the same reason.

Q. The very lowest price, then, that oil reached at Akron during the time that Castle or the Columbia Refining Company were attempting to get a foothold there was 7½ cents, and that was in April, 1905, was it not?—A. Yes, sir; for Water White oil.

Q. In April, 1906, the price was also 7½ cents, was it not?—A. Sir?

9536 Q. In August, I should say, 1906, the price was also 7½ cents, was it not?—A. Yes, sir; for the same grade.

Q. And during the year 1908, without any competition from the Columbia Refining Company at that point, the price is also 7½ cents, is it not?—A. Yes, sir; for the same grade.

Q. Did you put on any peddlers at Akron, Ohio, for the purpose of meeting the Columbia Refining Company competition?—A. No, sir.

Q. Mr. Castle stated that when he was in the employ of the Standard, representing the Standard, he made certain special arrangements with two peddlers, by the name of Jeremiah and Vahey, at Youngstown, Ohio, for the purpose of driving out the competition of the Freedom Oil Company at that point. What are the facts about that, Mr. Squire?—A. The facts as reported to us were these——

Q. As reported to you by whom, Castle?—A. By Castle, through the station manager; that the Freedom Oil Company, that had started in business at Youngstown, not having succeeded in securing much business from the dealers, had established peddlers. It was reported that they were making extremely low retail prices to secure trade, and that unless we gave the peddlers buying from us a price which would enable them to meet that competition, they would be compelled to go out of business or purchase from the Freedom. I believe that prices were made to peddlers buying from us to enable them to compete and hold their business. This, however, was long before the advent of the can-peddling business at that point.

9537 Q. Referring to Mr. Castle's testimony that when the Columbia started in business, or rather when he started in business at Cleveland, there were 250 oil peddlers, and that now there are only about 50, what have you to say with respect to that?—A. Broadly speaking, I think that that is true.

Q. And what is your explanation of that reduction in the number of peddlers?—A. The introduction of natural gas.

Q. Can you give us a rough idea of the increase in the use of natural gas in Cleveland? About when was natural gas introduced there?—A. (Referring to memorandum.) I think it was some time about the latter part of the year 1902 or the early part of 1902.

Q. How many oil peddlers were there in Cleveland at the time natural gas was first introduced?—A. In 1902 there were 115 peddlers. At that time there was no natural gas.

Q. In 1908 how many oil peddlers are there?—A. 40, with 83,976 meters established, using natural gas.

The EXAMINER. Is natural gas used for lighting.

WITNESS: Yes, sir.

The EXAMINER. I thought it was for heating.

Q. That natural gas at Cleveland is used both for lighting and heating purposes, is it not?—A. The consumer uses it for both purposes.

Q. Have you prepared certain statistics there, showing year by year the number of oil peddlers in Cleveland, their decrease
9538 from 1902 to 1908, and year by year the increased number of users of natural gas?—A. Yes, sir, I have.

Q. Will you let us have it, please?—A. In 1902 there were 115 peddlers, with no natural-gas meters in use. In 1903 there were 90 peddlers, with 16,194 natural-gas meters in use. In 1904 there were 80 peddlers, with 30,165 natural-gas meters in use. In 1905 there were 78 peddlers, with 46,819 natural-gas meters in use. In 1906 there were 61 peddlers, with 66,743 natural-gas meters in use. In 1907 there were 43 peddlers, with 77,646 natural-gas meters in use. In 1908 there were 40 peddlers, with 83,976 natural-gas meters in use.

Q. Certain witnesses whose testimony was read into the record in this case have testified to competition or alleged competition between the Standard Oil Company and the Freedom Oil Company, in the years 1902, '3 and '4 at the city of Youngstown. I think it was a witness by the name of Lane who testified that when he was in the employ of the Standard Oil Company he was authorized to cut prices, to give away oil, to pay money, and to offer other inducements to secure the trade, as against the Freedom Oil Company. Will you please give us the history of that Youngstown com-
9539 petition?—A. I have already given you the history in a general way of the can-peddling business and its objects. Among the towns in which this method was used was Youngstown. Our instructions to the people in charge of that branch of the business were to maintain the retail market price prevailing in the towns in which they operated. I know of no cut prices that were made by them at Youngstown. I know of no oil that was given away, or other inducements, other than the quality of our oil and the good service which could be given. I might state, however, that the advantages which the can delivery had over the ordinary peddler, by reason of delivering gasoline in a can with a red top, whereas the oil can had an ordinary tin top, prevented accidents, as I explained yesterday, and gave our peddlers prestige with the consumer.

Q. What became of Lane? Was he another one of these discharged employees of the Standard?—A. Mr. Lane was a man a good deal like Mr. Lines—persistent in presenting his own ideas, would not follow instructions, and did not report conditions correctly, and was finally discharged for that reason.

Q. What is there, if anything, to the story that ministers at Youngstown were persuaded by the Standard Oil Company to influ-

ence their congregations to take part in the oil war or alleged oil war that was going on at that point?—A. All there is to that story, which was magnified greatly, is the fact that Mr. Crawmer, who at that time had charge of the can-peddling business, was keeping company with a minister's daughter at Youngstown and afterward married her.

Q. That is all there is to that story, is it?—A. Yes, sir.

9540 Q. Do you know Charles Kercher, or did you ever know him at any time?—A. No, sir.

Q. Do you know what business the Paragon Oil Company carried on in the State of Ohio in the years 1892, '3, '4, '5, and '6?—A. Yes, sir.

Q. What was it?—A. A retail oil business.

Q. Did it do its business exclusively through peddling wagons?—A. As far as I know; yes, sir.

Q. Do you remember any of the towns where it did business?—A. Yes, sir.

Q. Did the Standard Oil Company ever have any interest in this business?—A. None whatever.

Q. Jointly with anybody else?—A. No, sir.

Q. Or in any shape, form, or manner?—A. None whatever.

Q. Do you know where the Paragon Oil Company purchased its supplies, generally speaking?—A. From the Standard Oil Company.

Q. How long did it continue in business?

(Witness consults memorandum.)

Q. Oh, about how long; about 5 years, wasn't it, Mr. Squire?—A. I think it was; yes, sir.

Q. Well, it was an oil-peddling concern, buying most of its oil from the Standard during that period of time?—A. Yes, sir.

Q. Do you know what became of their outfit?—A. I believe that they sold most of their outfit to the individual peddlers who were driving their wagons.

Q. The Standard got some of it, did they not?—A. There was a little left, which they could not dispose of.

9541 Q. How much did the Paragon owe the Standard at the time they went out of business?—A. About $2,300.

Q. Was there any conference with respect to the sale of their outfit, for the purpose of getting funds enough to enable them to pay that indebtedness?—A. Yes, sir.

Q. And was it as the result of that conference that an effort was made to sell the outfit to individual peddlers?—A. Yes, sir.

Q. Were they able to sell all of their outfit to individual peddlers?—A. They were not.

Q. Was the Standard then compelled to take part of that outfit in liquidation of part of that $2,300 indebtedness, and did you do so?—A. We did.

Q. And that is how you happened to get some of the outfit of the Paragon Oil Company, is it?—A. Yes, sir.

Q. Did you ever put spotters on to follow their delivery wagons while they were engaged in the peddling business?—A. No, sir.

Q. You had no retail wagon selling to their customers, had you?—A. Absolutely none.

Q. There would be no occasion for your doing that?—A. Absolutely none.

Q. Was Columbus one of the towns where the Paragon did business?—A. Yes, sir.

Q. Was there ever any price war on there during the five years that the Paragon was in business?—A. Not that I know of.

Q. Well, would you know if there was one?—A. I would be likely to.

9542 Q. You would know, wouldn't you?—A. Yes, sir.

Q. Was there ever any price conflict or trade conflict between the Paragon Oil Company and the Standard, as testified to by certain witnesses in this case?—A. Absolutely none.

Q. In your long experience in the oil business in connection with the trade of peddlers, have you discovered that competitors frequently try to take away peddling trade, one from the other?—A. Oh, yes.

Q. That has been quite a common practice, has it not?—A. Oh, yes; due to the fact that they are very liberal buyers compared with the retail grocery stores.

Q. The principal witness called by the Government at Cleveland was a man by the name of C. B. Darby. Was he ever in the employ of the Standard Oil Company?—A. He was.

Q. In what capacity was he employed, and where?—A. As tank-wagon driver.

Q. At New London?—A. At New London, Ohio.

Q. When did he begin working for you?—A. We employed him during the year 1897 as a commission agent. He remained in our service on that basis until April, 1900, at which time he was put upon a salary.

Q. As a tank-wagon driver?—A. As a tank-wagon driver; and he was discharged——

Q. How long did he remain in your employ?—A. He was discharged August 7, 1901.

Q. What for?—A. For cause.

Q. What cause?—A. It had been reported to us that he was

9543 using our team for doing farm work for others on shares, road work, harvesting, and driving his family out on pleasure trips evenings, and not giving full measure to our customers.

Q. Did Darby later on, after he was discharged as a tank-wagon driver for the Standard at New London, go into business for himself?—A. Yes, sir.

Q. As an oil peddler?—A. Yes, sir.

Q. He testified at Cleveland, among other things, that he was threatened by the Standard that if he (Darby) would not buy his oil as an oil peddler from the Standard, they would put on a peddler and drive him out of business. What is the truth about that statement?—A. There is no truth in it whatever. On the contrary, some

time in 1903 or '4 he gave an order to Mr. Hackerdorn for 20 barrels of oil, to be delivered to him from time to time as he wanted it. The order was sent to Cleveland to be filled. It was refused by the manager on the ground that we did not want any business whatever, that we did not want to have anything whatever to do with Mr. Darby.

Q. So that instead of threatening him that unless he bought from the Standard, as a matter of fact when he endeavored to buy, his order was turned down?—A. Absolutely so.

Q. And his trade was refused?—A. Yes, sir.

Q. Was there any price war instituted by the Standard against Darby at New London?—A. No, sir.

Q. Have you the range of prices there from 1905 to 1908, inclusive?—A. I have.

9544 Q. Let us have them, please.—A. (Referring to memorandum.) January 10, 1905, our tank-wagon price for Water White refined oil was 9½ cents per gallon. February 3, 1905, it was 8 cents per gallon. April 22, 1905, it was 7½ cents per gallon. September 18, 1905, it was 8 cents per gallon. October 9, 1905, it was 9 cents per gallon. November 9, 1905, it was 9½ cents per gallon. February 19, 1906, it was 9 cents per gallon. June 11, 1906, it was 8½ cents per gallon. August 9, 1906, it was 8 cents per gallon. August 20, 1906, it was 7½ cents per gallon. March 21, 1907, it was 8 cents per gallon. January 24, 1908, it was 7½ cents per gallon.

Q. Those were the tank-wagon prices, were they?—A. Yes, sir. I might state that there was no competition on the tank-wagon price—in the tank-wagon business.

Q. Darby testified that in 1905, at the time about which I have asked you to give those prices, the Standard Oil Company caused a man by the name of Moore to start in the peddling business there, and that thereupon the price war began. In the first place, you have shown by the prices that you have given that there was no price war. Now, did the Standard Oil Company have anything to do with putting Moore in there as a peddler?—A. No, sir.

Q. Did he buy most of his oil from the Standard?—A. I believe he did.

Q. Was there any relation beyond that fact——A. No, sir.

9545 Q. Between Moore and the Standard Oil Company?—A. No, sir.

Q. Did you have any control over him or the prices that he charged his trade?—A. None whatever.

Q. Did you seek to exercise any such control?—A. No, sir.

Q. I have called your attention to the four or five towns in the State of Ohio concerning which the Government has offered testimony in this case of price cutting and these trade wars. How many towns altogether in the State of Ohio does the Standard Oil Company of Ohio reach in its trade?—A. Over 3,400.

Q. Out of which the Government has selected some 4 or 5?—A. Yes, sir.

Q. Of those 3,400 towns, during the last ten or fifteen years that you have been handling the trade of those towns, what has been the measure of complaints from the territory as a whole?—A. Practically nothing.

Q. With whom do you come in active competition in marketing petroleum and the products of petroleum in the State of Ohio?—A. Practically all of the Pennsylvania refiners, Marietta and Parkersburg refiners, Findlay refiners, Kentucky refiners, Toledo refiners, the Wyandotte refinery, the Lodi refinery, and the Cleveland refiners.

Q. Cincinnati?—A. That is Kentucky.

Q. That is the Indian Refining Company of Ashland, Kentucky?—A. That is the one.

Q. About how many refiners all told are there selling illuminating oil or products of petroleum in the State of Ohio that are in no wise related to or connected with the Standard Oil Company of Ohio or the Standard Oil Company of New Jersey?—A. There are 40 refiners competing with us in Ohio.

Q. How many of these refineries maintain main tank stations in the State of Ohio, and how many of them?—A. They have 15 mains and 17 subs, making a total of 32 stations in all.

9546 Q. How many oil jobbers are there, not connected with the Standard or any of its affiliated companies, engaged in the sale of illuminating oil or other products of crude oil throughout the State of Ohio?—A. Fifty.

Q. Do any of them maintain tank stations in your State?—A. Yes, sir.

Q. How many?—A. Ten. They have five subs. Making fifteen in all.

Q. Ten main tank stations and five substations?—A. That is right.

Q. How many wholesale houses are there within the State of Ohio which handle oil or the products of petroleum? I mean wholesale houses in no wise controlled or connected with the Standard Oil Company.—A. Oh, there are several hundred. I don't know as I could give you the exact number.

Q. My record shows two hundred and forty. What do you say as to that?—A. I say that is about right.

Q. You say there are several hundred?—A. Two or three hundred.

Q. With all that competition in your State, you, as an old and experienced merchant, do not regard it as extraordinary that alleged grievances and complaints bob up from time to time, do you?—A. Why, I think it is a natural consequence.

Q. Generally speaking I would like to have you state what your experience has been in the State of Ohio with respect to the cutting of prices, as to whether the cuts are initiated by your competitors or by the Standard Oil Company.—A. I think I am perfectly

9547 safe in saying that absolutely every competitor that starts in business starts by cutting the price to secure trade. Inasmuch as the dealer is satisfied with the party with whom he was dealing, it would be but natural for him to refuse to change unless inducements

were offered; and competitors, as a general proposition, always cut the price to secure trade.

Q. Please state whether you, as head of the Standard Oil Company of Ohio in charge of the field work, have from time to time issued any instructions to your field men and to your managers of sales departments with respect to that subject?—A. I have.

Q. Have you done that frequently?—A. Yes, sir.

Q. And what have those instructions been?—A. Defining the policy of the company.

Q. With respect to price cutting?—A. Yes.

Q. Have you ever put those instructions in writing?—A. Yes, sir.

Q. When?—A. Frequently.

Q. Have you before you any writing in which such instructions are stated?

(Mr. Rosenthal hands paper to the witness.)

Q. What do you hold there in your hand?—A. Carbon copy of a letter written by me September 27, 1904.

Q. A tissue carbon copy of a letter written by you on that date. To whom?—A. To Mr. C. P. Taplin.

Q. Who is Mr. Taplin?—A. My assistant in marketing questions.

Q. The man who stood next to you in charge of all field
9548 operations?—A. Yes, sir.

Q. Does that letter correctly announce your policy then, since then, and before that time?—A. Absolutely.

Mr. ROSENTHAL. I offer it in evidence.

Mr. KELLOGG. It is objected to as incompetent.

The paper was marked "Defendants' Exhibit 102," and is as follows:

"SEPT. 27, 1904. S

["Reductions to meet cut prices.]

"Mr. C. G. TAPLIN, *Building*.

"DEAR SIR: Confirming my brief talk with you this morning, and emphasizing the policy which we have pursued in the past in relation to our cut file record.

"I desire to reinforce what has been done in the past, and request that you call your people's attention to the fact that it is the policy of the company not to change any particular local market without having positive evidence that the competitor has cut prices; and whenever such cases occur they are to pass through the regular channels this evidence, so that when the question is considered for final action there will be no question as to the fact of the competitor having cut the market, it being our desire not to reduce prices unless we are forced to it in order to regain lost business which has been taken from us by cut prices made by competitors.

"It goes without saying that general advances or declines
9549 which we may make will be governed by conditions, such as changes in the price of crude or changes in the price of products which would affect refined oils, or changes in freight rates or

the cost of the package. All such questions have a bearing, and when different conditions exist naturally they will affect the general situation and necessitate changes. But these subjects are all of a general character, whereas my remarks on cut prices have particular reference to local markets.

"Trusting that I have made myself clear and that you will understand the same and see that your file is carefully kept here, so that at any future time should we desire to verify our position it could be done without question, I remain,

"Yours, truly, "F. B. SQUIRE,
"*Vice-Prest.*"

Q. That constituted your written instruction, did it, Mr. Squire?—A. Yes, sir.

Q. And is a correct carbon copy of the letter you sent out at that time?—A. Yes, sir; it bears a carbon copy of my signature.

Q. Do you know when the Standard Oil Company first began the use of the tank-wagon delivery system?—A. I do not.

Q. Was it before your connection with the company in 1885?—A. Yes, sir.

Q. Will you state briefly, Mr. Squire, the advantages of tank-wagon delivery as compared to barrel delivery?—A. Yes, sir.

Q. Please state it.—A. It prevents all leakage, lessens the
9550 fire risk to the storekeeper by reason of carrying stocks in barrels on the premises, pumping the oil from the barrel into his store tank; especially is this dangerous during the winter time when stoves are in use. There is never any question as to the quantity of oil delivered by tank wagon, while there has always been more or less dispute concerning the capacity of the barrel. It insures a uniform grade of oil. It prevents contamination, which is often experienced by glue in packages. Our tank-wagon man is always on the ground to take care of any complaint and protect the customer. These advantages have been sufficient to practically displace barrel sales.

Q. What percentage, in the year 1906, of the refined-oil business of the Standard Oil Company of Ohio was done by tank wagon?—A. 73.95 per cent.

Q. And what percentage by bulk delivery?—A. 12.80.

Q. The balance, amounting to 13.25 per cent, was done in what form?—A. Barrels, cans, and cases.

Q. What proportion of the total refined oil tank-wagon business done by the Standard Oil Company of Ohio in the year 1906 was entirely within the State of Ohio?—A. All but 0.14 per cent.

Q. Your barrel oil is sold, I suppose, to the same class of trade as your tank-wagon oil is sold, is it not?—A. Yes, sir.

Q. What proportion of your total barrel, can, and case oil is sold entirely within the State of Ohio?—A. All but 3.90 per cent.

Q. What proportion of the total refined-oil business for the year 1906 was done entirely within the State of Ohio?—A. All but 1.33 per cent.

9551 Q. State whether substantially the same ratio maintains with respect to naphtha and gasoline as does with respect to refined oil?—A. Yes, sir.

Q. Please state whether the year 1906, in so far as these figures are concerned, is a representative year.—A. I should say it is.

Q. State what the fact is as to whether practically all of the refined oil marketed in the State of Ohio by the Standard Oil Company of Ohio, as you have described, is refined within the State of Ohio.—A. Practically all of it.

Cross-examination by Mr. KELLOGG:

Q. Where are the refineries of the Standard Oil of Ohio?—A. Cleveland, Ohio.

Q. Where do you get your crude oil?—A. Usually from the Ohio Oil Company.

Q. Where is it delivered to you?—A. At Cleveland.

Q. Are you an officer of the Ohio Oil Company?—A. I am not.

Q. Who pays the pipeage charge on the oil?—A. We do.

Q. From what points?—A. From whatever point it is shipped.

Q. The pipe lines of the Ohio Oil Company run into Indiana, do they not?—A. I do not understand the Ohio Oil Company had any pipe lines.

Q. Through what pipe lines do you get your oil?—A. Through the Buckeye pipe line.

Q. Where does the oil come from?—A. I couldn't tell you.

Q. Do you know whether it is Ohio oil or Indiana oil?—

9552 A. No, sir.

Q. You know nothing about it whatever?—A. No, sir.

Q. Who has charge of that?—A. I do.

Q. You have charge of all of the business of the Standard Oil of Ohio?—A. Practically.

Q. And you don't know where your oil comes from, whether it is Ohio, Indiana, Illinois, or Kansas?—A. Oh, yes; certainly.

Q. What?—A. Certainly I do.

Q. I asked you that question, where it comes from.—A. You asked where ours comes from.

Q. Yes; oil that you manufacture.—A. Yes; that is right.

Q. Where does it come from?—A. The Ohio Oil Company.

Q. From what fields?—A. I can't tell you where they get the oil from.

Q. You don't know then whether the oil that you manufacture comes from the Ohio oil fields, the Indiana oil fields, the Illinois oil fields, or some other field?—A. I have always assumed that it came from the Ohio field.

Q. Is there a difference in grade between the mid-continent oil fields (in Kansas and Oklahoma) and the Ohio oil fields?—A. I am not familiar with that.

Q. You don't know anything about it?—A. Practically.

Q. Who in your company is familiar with it?—A. I couldn't tell you.

Q. You don't know?—A. No, sir.

Q. Don't you know that there is a difference in grade between
9553 Pennsylvania and mid-continent oil?—A. Yes, sir.

Q. There is?—A. Yes, sir.

Q. How did you find that out?—A. By experience.

Q. What experience?—A. As a refiner.

Q. You are an expert refiner, are you?—A. No, sir.

Q. Well, you have had a great deal of experience in refining?—A. I have had some experience.

Q. Now, have you the same experience with the Ohio-Indiana oil that you have with the Pennsylvania and mid-continent oil?—A. I don't know as I understand the question.

Q. You say there is a difference between Pennsylvania oil and mid-continent oil?—A. I don't know what you mean by mid-continent.

Q. Well, you do know Kansas and Oklahoma?—A. I don't know anything about those fields.

Q. What did you mean by saying there was a difference between that oil?—A. I understand there is a difference between the oils.

Q. You understand?—A. Yes.

Q. And you got that understanding from your experience, you say?—A. Not as a refiner.

Q. You never had any experience with it whatever?—A. Not that I recall.

Q. What oils have you had experience with?—A. Ohio.

Q. Only the Ohio?—A. That is all.

Q. You are familiar with the grade of Ohio oil, are you?—A. Yes, sir.

Q. Then there is a difference, is there, between Ohio and
9554 Pennsylvania?—A. Oh, yes.

Q. How did you find that out?—A. By experience.

Q. Then you must know the grade of Ohio oil and the Pennsylvania oil?—A. Some of it.

Q. Which is the best?—A. That depends on circumstances.

Q. What circumstances?—A. What you want it for.

Q. For refining and making gasoline and kerosene oil.—A. It depends upon your markets.

Q. What markets?—A. Your demands of trade.

Q. Generally speaking, there is no difference between Pennsylvania and Ohio, is there?—A. Why, certainly there is.

Mr. ROSENTHAL. He hasn't said so.

Q. For the manufacture of gasoline, which is the best?—A. I don't know as I understand your question.

Q. Well, what is the difference between the Ohio and the Pennsylvania?—A. Sulphur.

Q. Sulphur?—A. Largely.

Q. Is that all?—A. Largely.

Q. What else?—A. That is a pretty hard question to answer.

Q. You say there is a difference. Now, what is the difference?—A. If you will define your question I will try to answer it for you, Mr. Kellogg.

Q. What is the difference between Ohio oil and Pennsylvania oil as to quality?

Mr. ROSENTHAL. That is a pretty broad question.

Mr. KELLOGG. I want a broad answer.

A. Sulphur.

Q. Is that the main difference?—A. Yes, sir.

9555 Q. Is the Pennsylvania a higher priced oil?—A. I presume it is.

Q. Do you know it is?—A. I think it is.

Q. How much?—A. I have no idea.

Q. You have no idea at all?—A. No, sir.

Q. Do you know what the market price of oil is in Ohio?—A. Yes, sir.

Q. You buy it every day, don't you?—A. Once a week.

Q. You are familiar with the market prices, then?—A. Usually.

Q. Have you bought any from Pennsylvania?—A. No, sir.

Q. Never since you have run the refinery?—A. Not since we ran Ohio oil.

Q. Not since you had Ohio oil. So you know nothing about the markets of Pennsylvania oil?—A. Nothing whatever.

Q. Never noticed it in the paper?—A. I may have.

Q. You don't recollect of ever having seen it?—A. I am not interested in it.

Q. You don't keep posted as to the Pennsylvania prices?—A. No, sir.

Q. Now, what is the difference between Ohio oil and the Illinois oil, as to quality?—A. It would be very hard to define.

Q. Is there a difference?—A. I understand there is a difference.

Q. How did you find that out?—A. By contact with people.

Q. By buying it?—A. I may have bought some.

Q. Do you know that there is a difference in the price?—A. No; I do not.

9556 Q. You don't know?—A. No, sir.

Q. Isn't it a fact that you keep track of the different grades of oil that you manufacture and use in your refinery?—A. We only use the Ohio oil; the sulphur oil.

Q. You have never used anything but Ohio oil?—A. We have never used anything but the sulphur oil since we transferred our refinery to that process.

Q. Have you ever used anything but Ohio oil?—A. As we know it; no, sir.

Q. You never have?—A. No, sir.

Q. You swear that your refinery does not use, and has not for the last three years used, anything but oil produced by the wells in Ohio, do you?—A. I didn't say that.

Q. Then, what do you mean by saying it has not used anything but Ohio oil?

Mr. ROSENTHAL. He told you what he meant. What is the use of misinterpreting his answer willfully, as you have just attempted?

Mr. KELLOGG. I haven't done it willfully. I haven't done it at all.

Q. What do you mean by saying it has not used anything but Ohio oil?

Mr. ROSENTHAL. Then, you didn't catch his answer.

Mr. KELLOGG. I think you had better apologize.

A. I said we had used nothing but sulphur oils, what we know as sulphur oil.

Q. Where are they produced?—A. I couldn't tell you.

Q. You don't know anything about it?—A. No, sir.

9557 Q. When you receive oil at the refinery, do you get a bill for it?—A. Yes, sir.

Q. From what company?—A. From the Ohio Oil Company.

Q. Does it state the grade of oil?—A. I don't remember.

Q. You don't remember?—A. No; I don't know as I ever saw a bill.

Q. You don't know as you ever saw a bill?—A. No.

Q. What do you mean by saying that you pay the pipeage charges?—A. Whatever the pipeage is we pay.

Q. From whatever field it comes?—A. From the Ohio Oil Company.

Q. From the Ohio Oil Company?—A. Yes, sir.

Q. But you say the Ohio Oil Company has no pipe lines?—A. That is true.

Q. What?—A. They are producers.

Q. They are producers—own no pipe lines?—A. As far as I know.

Q. You get it from the Buckeye pipe line?—A. Yes, sir.

Mr. ROSENTHAL. He said the Ohio got it from the Buckeye.

Q. Well, the Ohio. The Ohio is the selling company of the oil, is it?—A. We buy from the Ohio Oil Company.

Q. I understand. Now, you get a bill for the charges for piping, don't you?—A. I presume we do.

Q. What are they? What pipeage do you pay?—A. The usual rate.

Q. What is the usual rate?—A. I don't know.

Q. Have you ever known?—A. Not that I remember of.

9558 Q. What is the charge for the gathering lines?—A. I can't tell you.

Q. You don't know anything about it?—A. No, sir.

Q. You never have known?—A. No, sir.

Q. Do you get any oil from Kansas and Oklahoma?—A. Not that I know of.

Mr. ROSENTHAL. I object to that. He has already answered it.

Q. You don't know?—A. I said not that I know of.

Q. Not that you know of?—A. No.

Q. Have you ever seen the oil from Kansas and Oklahoma?—A. Not that I remember.

Q. Does some of the oil you manufacture come from Indiana?—A. I couldn't tell you.

Q. You don't know?—A. I don't know; no, sir.

Q. You don't know anything about it?—A. No, sir.

Q. Are the pipeage charges the same from Indiana as they are from Ohio?—A. I couldn't tell you.

Q. Are they the same from the Illinois field as they are from Ohio?—A. I couldn't tell you.

Q. Is there anything about the business that you do know anything about?—A. If you will ask me I will try and answer.

Q. I mean about the business of buying the oil. If there is, I would like to have you tell me.—A. If you will ask me a question I will try and give you a correct answer.

Q. Then you don't know where your oil comes from?

Mr. ROSENTHAL. I object to that. That is the fourth time that question has been answered.

Mr. KELLOGG. I want to get it into the record.

9559 Mr. ROSENTHAL. You don't want to get it in more than three times, do you?

Mr. KELLOGG. I will attend to my examination if you will attend to yours.

WITNESS. I don't suppose, Mr. Kellogg, you want me to give misinformation.

Mr. ROSENTHAL. Oh, yes, he does.

Mr. KELLOGG. Not at all. I want you to give information that I believe you have.

WITNESS. I am trying to give you correct information.

Q. I want to know whether you know that the Standard Oil of Ohio has ever used in its refinery, since you have been in charge of it, any oil from the States of Indiana or Illinois.

Mr. ROSENTHAL. Now, I object to that, because that is the fifth time that that question has been asked, and it has been answered at least three times.

Q. Will you answer?

Mr. ROSENTHAL. The witness has said he didn't know.

A. We purchase from the Ohio Oil Company. Where they get it from I couldn't tell you.

Q. Will you please answer the question?—A. I have.

Mr. ROSENTHAL. I submit he has answered it.

(The reporter then read as follows: "Q. I want to know whether you know that the Standard Oil of Ohio has ever used in its refinery, since you have been in charge of it, any oil from the States of Indiana or Illinois.")

Mr. ROSENTHAL. What is the answer?

Mr. KELLOGG. I want his answer to that question.

9560 Mr. ROSENTHAL. What is the answer he gave? I want the answer read. I insist he has already answered the question and the answer is of record. Now, let us have the answer.

The EXAMINER (to the reporter). Read what you have.

Mr. KELLOGG. I want to know if I am going to be permitted to conduct the cross-examination of this witness, or if I am going to be insulted by Mr. Rosenthal.

The EXAMINER. Mr. Rosenthal has a right to have the answer read.

Mr. ROSENTHAL. You have no more right to have the question read than I have to have the answer read, and if that is an insult to you, why, you are going to get a good many of them. It is a queer sort of an insult if opposing counsel can't ask to have an answer read when you ask to have a question read.

Mr. KELLOGG. Go on and say all you have to say and get through, and then I will go on with the witness.

(The reporter then read as follows: "Q. I want to know whether you know that the Standard Oil of Ohio has ever used in its refinery, since you have been in charge of it, any oil from the States of Indiana or Illinois.—A. We purchase from the Ohio Oil Company. Where they get it from I couldn't tell you.")

Q. Will you make any further answer?—A. That is the only answer that I can make.

Q. Do you mean by that that you don't know where the oil comes from?—A. Absolutely.

Q. And from the quality of the oil you have no knowledge whatever, whether it is produced in Ohio or Indiana?—A. No, sir.

9561 Q. Or whether it is produced in Oklahoma or Kansas?—A. I don't know.

Q. Do you ship any oil out of Ohio that you manufacture?—A. Very little.

Q. In what form?—A. In various forms.

Q. By tank cars?—A. Yes, sir.

Q. To what companies do you ship oil?—A. You mean out of the State?

Q. Yes, sir.—A. Various companies.

Q. The Standard of New York?—A. We might.

Q. What?—A. We have.

Q. Do you every year?—A. A little.

Q. How much did you ship out last year to the Standard of New York?—A. Oh, I couldn't tell you that.

Q. What is the total of all products which you sold, shipped out of the State of Ohio, last year—all products?

(Witness refers to memorandum.)

Q. I do not mean refined oil and gasoline alone, but I mean all products.—A. I am unable to give it to you in combined form.

Q. You only have it as to gasoline?—A. Refined oils and gasoline.

Q. What other products do you make?—A. I don't think we make any that we ship out of the State.

Q. What other products do you make?—A. All the products of petroleum.

9562 Q. What are they?—A. I couldn't enumerate them.

Q. You don't know?—A. Oh, I do know.

Q. Do you make lubricating oil?—A. Yes, sir.

Q. Where do you sell that?—A. All over.

Q. Out of the State of Illinois?—A. What is that?

Q. Sell some of it outside of the State of Illinois?

Mr. ROSENTHAL. Ohio, you mean.

Q. Ohio.—A. Yes, sir.

Q. How much do you ship out of the State of Ohio?—A. Not very much.

Q. How much?—A. Very little.

Q. How much is a very little?—A. Well, a minute per cent.

Q. Do you have figures upon that?—A. Only in a general way.

Q. Let me see what you are testifying from, will you?

(Witness hands his memorandum to Mr. Kellogg.)

Q. I don't see that. Are there any statements there as to anything except refined oil and gasoline?—A. There are not.

Q. That is what I asked you. Have you made up any statistics as to the other products?—A. No, sir.

Q. And you don't know anything about them?—A. Only by general knowledge.

Q. Only in a general way. The statement that you have been testifying from contains the total bulk sales. What do you mean by that?—A. If you will let me look at it I will try and explain it.

(Mr. Kellogg returns the memorandum to the witness.)

WITNESS. Those are bulk shipments, tank-car shipments.

Q. Tank-car shipments?—A. Yes; principally.

9563 Q. Does this statement contain all of the tank-car shipments made by the Standard Oil of Ohio, for the years stated, beyond the State of Ohio?—A. Yes, sir.

Q. When you sell oil to the Standard Oil of New York, does that company ship it or do you ship it? I mean, do they pay the freight or do you?—They pay the freight.

Q. Does this statement contain all oil sold to other Standard companies where they pay the freight from your refinery?—A. I could not answer that.

Q. You don't know?—A. No, sir.

Q. Then, you don't know whether this statement contains the sale of oil to other Standard Oil companies in bulk and shipped out of the State?—A. My impression is that it does.

Q. Do you know?—I don't want any impressions. I want you to say positively.

(Mr. Kellogg returns the memorandum to the witness.)

Q. Who made it up?—A. Our statistical department.

Q. You never examined the figures?—A. I had them verified.

Q. By whom?—A. Mr. Heil.

Mr. ROSENTHAL. Is there any objection to them upon that ground, Mr. Kellogg? If so, we will have to call the man who made them up.

Mr. KELLOGG. There is no objection to the statements on the ground that they were made up by somebody else; only I want to know how much Mr. Squire is testifying to and how much he is guessing at, that is all.

Q. Mr. Squire, you testified, as I recall, that the informa-
9564 tion as to competitive sales and shipments was obtained largely by your tank-wagon drivers, or by tank-wagon drivers in the various districts. Is that correct?

Mr. ROSENTHAL. I don't think he testified to anything like that, Mr. Kellogg.

Q. Did you say this information could be procured from tank-wagon drivers?—A. I did not.

Q. What did you say about their getting information from their circuits or——A. That was in relation to the claim that was made that spotters were put on tank-wagon routes of competitors to find out who their customers were. I denied that charge and stated that each tank-wagon driver of ours, by reason of his familiarity with each and every customer on the route, knew from whom every buyer of oil was buying; that it was A B C with him; that he knew the customers by their surnames (either his or hers), and therefore any information that we wanted with respect to that branch of the business could be secured from them in an absolute manner; not only as to whom they were buying from, but the reasons therefor.

Q. The only information they could give would be as to what retailer or peddler they were buying from?—A. Just what I have said in my answer.

Q. Isn't that true?—A. Just what I have said in my answer.

Q. Isn't it a fact that that is the only information they could give, would be what local dealer or peddler the customer was buying from?—A. I have made a complete answer to that statement.

Q. Do you decline to answer the question?—A. No; I say I
9565 have already answered it.

Q. Could they get the information as to who the shipper of the oil was to the local station?

Mr. ROSENTHAL. There wasn't any custom testified to by Mr. Squire concerning shippers of oil to local stations. He was talking about tank-wagon routes and tank-wagon drivers.

Q. Please answer the question.—A. What was it, please.

(The following question was read: "Could they get the information as to who the shipper of the oil was to the local station?")

A. I don't recall having made any such statement.

Q. Will you please answer the question?—A. I have.

Q. Did you have a system of reports of competitive shipments into your district?—A. We requested all of our local people, as I have testified, to report back to the main office any and all information that they might secure in a legitimate manner regarding any competitive business.

Q. And did you put the word "legitimate" in your instructions?—A. Always.

Q. What year did you commence to use the words "legitimate instructions?"—A. I couldn't tell you, but it was a great many years ago.

Q. Did you give those instructions in writing?—A. Frequently.

Q. Have you got the writings?—A. I may have.

Q. Will you produce them?—A. If I can find them.

Q. When will you let us know about that?—A. As soon as I reach home. But I doubt whether I can find it. Our files have been robbed.

9566 Q. They have been robbed? Who robbed them?—A. I couldn't tell you.

Q. Didn't you burn them in the building at Cleveland, Ohio?—A. No, sir.

Mr. ROSENTHAL. We might make a guess as to the burglar.

Q. Now, you say you had a form of these competitive shipments that you sent to your agents?—A. Yes, sir.

Q. Where did you expect your local agent to get the car initials and the car numbers?—A. On the car.

Q. I mean of your competitors' shipments.—A. On the car.

Q. To go down to the station and look around and find it?—A. Oh, I didn't say so.

Q. Well, how would he get it?—A. If he saw it, in a legitimate way, he would have a perfect right——

Q. What would you call a legitimate way to see it?—A. If he was going by a station and saw a carload of oil he would have a perfect right to report that and give the car number.

Q. But he wasn't to go in and walk around the tracks and hunt it up?—A. We never gave any such instructions.

Q. But simply if he was going by the station and happened to see a car he would report it.—A. You must bear in mind that in small towns a carload of oil is like a monument on a hill.

Q. Now, is Lorain a small town?—A. Yes, sir.

Q. How big?—A. Oh, until quite recently it was a very small town.

Q. How large?—A. Probably 4 or 5 thousand people.

Q. How large is it now?—A. 25,000, I should think.

9567 Q. How large is Youngstown?—A. A small town.

Q. How large?—A. I don't know as I can tell you.

Q. Haven't you an idea?—A. No; I have not.

Q. 50,000 people, hasn't it?—A. Possibly, at present.

Q. More than that, hasn't it?—A. At present.

Q. And has had for many years, hasn't it?—A. I don't think so.

Q. It has had more than 50,000 people for ten years?—A. I don't think so.

Q. Do you call a carload of oil there a great event?—A. Oh, sure.

Q. It would be?—A. Yes, sir.

Q. A carload of oil sent into Youngstown would be a great event? How many carloads of oil do you send in there in a year?—A. I couldn't tell you.

Q. Haven't any idea?—A. No, sir.

Q. Not the slightest idea of how many carloads of oil you sell there in a year?—A. No, sir. I can give you that information, if you wish it.

Q. How did you expect, then, to find out the kind of oil?—A. The brand always designates that.

Q. On the barrel?—A. Yes, sir.

Q. How? Were they to go and hunt up the barrels in the cars?—A. I didn't say so.

Q. How do you think they would find it?—A. In a very natural way. When they see a barrel they see the brand.

Q. But how would they happen to see the barrel? Were
9568 they to go and find out in the stations?—A. The barrel is not hid.

Q. Were they to go and find out in the stations?—A. No, sir.

Q. They were not?—A. No, sir.

Q. Where were they to find out?—A. Any place that they might see it in an ordinary way.

Q. Just happen to see it?—A. In an ordinary way.

Q. What would you call an ordinary way?—A. In the natural conduct of their business.

Q. Well, what is the natural conduct of their business?—A. Daily visiting the stations and their customers.

Q. How would they find the shipper of the oil, who the shipper was, the consignor?—A. Oh, in a case like that, if the barrel itself did not give the name of the parties or the brand, why, they would probably get it from the customer.

Q. How could they find out from the customer the date of the consignment?—A. Oh, we have that. It is a very easy matter to get.

Q. A very easy matter to get?—A. Yes, sir.

Q. You never had your agents instructed to get this information from railroad agents?—A. Never.

Q. And none of your employees ever instructed the agents to do anything of the kind?—A. Not under instructions from the office.

Q. Well, did they have instructions from the office?—A. Not to my knowledge.

Q. Who was Mr. J. W. Hoag?—A. Agent at Cleveland station.

9569 Q. Did he have charge of a large number of stations in Ohio?—A. He had charge of a number of stations.

Q. Do you know his signature?—A. Yes, sir.

Q. Is that his signature [handing witness Petitioner's Exhibit 828]?—A. Yes, sir.

Q. This letter states: "It seems to me that you could learn this of local freight agent."

Mr. ROSENTHAL. Is that an exhibit already in evidence?

Mr. KELLOGG. Yes, sir.

Q. That is, competitive shipments. Would you call that an inquiry from the local freight agent?—A. Well, it depends on circumstances. It might be perfectly legitimate.

Q. It might be?—A. Yes, sir.

Q. I wanted to get your idea. Did they?—A. If Mr. Hoag was suspicious that the shipper in question had falsely billed his oil, or classified it, or underbilled it, he would have a perfect right to investigate it on the part of the railroad, that we might be protected against any unfair competition. The case in question is miner's oil, which is a vegetable product and not a petroleum product.

Mr. ROSENTHAL. I wish you would explain that fully in your answer, Mr. Squire. I forgot to ask you about that. Go right ahead.

WITNESS. Miner's oil is a vegetable product, and, as I understand it, is not classified with petroleum products, but is shipped under a classification by itself. Our competitors have been in the habit of shipping such products as petroleum and getting a lower rate.

9570 Naturally, they could undersell us. A number of cases of that character were called to our attention, and I never hesitated when I had the facts to present the matter to the railroad. It was also reported to us a number of times that competitors were shipping L. C. L. shipments as carload lots, taking a part out at one station and a part at another, thereby receiving a lower rate than they were entitled to. I remember a case at Mattoon where an accident happened to a car. The railroad, in transferring it, discovered there were twenty cases more in the car than the shipping bill called for. They made an investigation and found that a number of shipments were of the same character. The cases were taken out, and only the quantity called for by the shipping bill was delieverd. It was to guard against all such things as that that we sought information.

Q. Do you know anything about the case mentioned here?—A. Only in a general way.

Q. When was it reported to you?—A. I say I only know of it in a general way, the mere fact that I see it calls for miner's oil.

Q. Doesn't it also call for 54 other barrels of oil, of refined oil and gasoline?—A. Yes; but if the miner's oil was shipped in that same car it would naturally have received the same classification that the oil did, and miner's oil is shipped at a higher rate. Therefore, they would have a lower rate than we would, and consequently could undersell us on miner's oil.

Q. Is there a word said in this letter about finding out the rate of freight?—A. That he wouldn't do. That is a matter

5571 that would be taken up through another channel.

Q. Isn't it simply an inquiry as to the amount of oil and gasoline shipped in there?

Mr. ROSENTHAL. Let him see the letter.

Mr. KELLOGG. He has seen it.

Mr. ROSENTHAL. There is the letter [handing witness carbon copy].

WITNESS. I should say that that is a perfectly legitimate inquiry for him to make from a freight agent for the purpose I defined.

Mr. ROSENTHAL. You are referring now to Petitioner's Exhibit 828, are you?

WITNESS. I am; yes, sir.

Mr. ROSENTHAL. And why?

WITNESS. For the reasons which I have explained.

A recess was here taken until 2 o'clock p. m., at which time the witness was recalled and his cross-examination resumed by Mr. Kellogg, as follows:

9572 Q. You say miner's oil is a vegetable oil?—A. Mr. Kellogg, if you will pardon me, I would like to correct a statement that I made this morning, if I may be permitted.

Q. All right, sir.—A. It is in regard to crude-oil shipments. I have been away from Cleveland for two or three months, and I find during that time that Mr. Barstow has purchased—shipped there some Illinois crude.

Q. Do you know how much?—A. No; I do not.

Q. Is miner's oil a vegetable oil?—A. Largely; yes, sir.

Q. Isn't it made from a paraffin base?—A. No, sir; it is No. 2 cotton-seed oil, as defined by the Ohio statutes.

Q. It used to be made from a paraffin base, did it not?—A. Not that I know of.

Q. Did it ever have any products of petroleum in it?—A. Oh, yes; I presume it has.

Q. It has now, hasn't it?—A. The miner's oil used in Ohio has to conform to a law which is in existence in Ohio, which requires an oil the equivalent of No. 2 summer cotton-seed oil.

Q. Now, you explain this can business. Is that commonly known as the square can?—A. With us; yes, sir.

Q. Was that started by the Cleveland Oil Delivery?—A. Where?

Q. That square-can business?—A. In Ohio; yes, sir.

Q. In Ohio it was. Now, I understood you to say that the square-can business was instituted by the Standard Oil Company

9573 for the purpose of reaching the consumers. Am I correct in that understanding?—A. That was the primary object that we had in view.

Q. And it was started in Ohio by the Cleveland Oil Delivery?—A. And the Home Oil Delivery.

Q. The Cleveland Oil Delivery and the Home Oil Company—or what was the exact name?—A. I think it was the Home Oil & Gasoline Delivery.

Q. We will call it the Home Oil. And was it the Cleveland Oil & Gasoline Delivery?—A. I think that is the Cleveland Oil Delivery. It may be gasoline.

Q. Were those corporations?—A. No, sir.

Q. Mere companies?—A. Mere trade names.

Q. They were not known as belonging to the Standard Oil, were they?—A. Not generally; no, sir.

Q. The Cleveland Oil Delivery had an office in Cleveland?—A. Yes, sir.

Q. It was not in the Standard Oil building, was it?—A. No, sir.

Q. Who started it in its management?—A. I did.

Q. You kept its ownership secret from the general public?—A. From the trade; yes, sir.

Q. It operated in how many towns?—A. I think I have given a list of them. I should say 8 or 10.

Q. See if I give the names correctly: Warren, Ohio——

(Witness refers to memorandum.)

Q. Suppose I read them off and you state any that are not
9574 correct, because I do not want to take up time for it.—A. All right, sir.

Q. Warren, Youngstown, Niles, Canton, Massillon, Mansfield, Newark, Ashtabula, Springfield, Ravenna, Kent, Garrettsville, and Chardon—are those correct?—A. I don't think they ever did any business at Springfield.

Q. With that exception, that is correct? Now, they did business in those towns at different times, did they not? I mean, they did not do business in all the places at the same time?—A. I believe they did after they started.

Q. Well, they started at different times?—A. I gave the dates when they started.

Q. Now, in each one of those towns the Standard Oil Company had previous competition, hadn't it?—A. No, sir.

Q. It did not?—A. No, sir.

Q. It had competition in Youngstown?—A. Yes, sir.

Q. It had competition in Ravenna?—A. I don't recall that.

Q. It had competition in Mansfield?—A. Yes, sir.

Q. And Massillon?—A. Yes, sir.

Q. It had competition in Canton?—A. No, sir.

Q. No competition in Canton?—A. Not in that manner.

Q. Wasn't there very strong competition in Youngstown?—A. Yes, sir.

Q. There was competition in Chardon?—A. Well, it is a little bit of a place—about a thousand people.

Q. There were independent dealers there, were there not, selling oil?—A. There may have been.

9575 Q. How was it at Kent?—A. I don't recall any there.

Q. You don't recall?—A. Nor was there any at Ashtabula.

Q. No competition in Ashtabula?—A. No, sir.

Mr. ROSENTHAL. Any of the other places?

Mr. KELLOGG. He has named all the others.

Mr. ROSENTHAL. Has he?

Q. At Newark?—A. Yes; Newark. I did not name that. I don't think there was there. There may have been slight.

Q. Now, where did the Home Oil Delivery Company do business?—A. That is the one you have been speaking about?

Q. That was the Home Oil.—A. Yes.

Q. The Cleveland Oil Delivery did business where?—A. At Cleveland.

Q. There was very considerable competition in Cleveland, wasn't there?—A. There were a number of peddlers there.

Q. Now, who ran the Home Oil Company? Who operated it?—A. I don't know as I gather the meaning of your inquiry.

Q. Who had immediate charge of the operation of the Home Oil?—A. Mr. C. M. Lines.

Q. Mr. C. M. Lines, the man who testified in this case?—A. Yes, sir.

Q. He also operated under his own name, didn't he, as C. M. Lines?—A. I don't know as it was operated under his name. It was operated under the Home Oil Company, C. M. Lines, manager.

Q. Didn't he also operate under his individual name for you people?—A. Not with our authority.

9576 Q. Didn't he operate your business in Youngstown under the name of C. M. Lines?—A. No, sir; not with our authority.

Q. Didn't he advertise that fact generally by circulars?—A. I think he issued a circular to that effect without authority.

Q. Did you object to his issuing that circular?—A. We did.

Q. In writing?—A. I recall distinctly calling in Mr. Howard Cole, who had charge of that business directly under me. The information reached us that Mr. Lines was managing the business and giving it out generally that he was the owner of it, and we instructed Mr. Cole to tell Mr. Lines that that sort of thing must stop; that he must follow the instructions given him in the beginning, which were that if he was ever called into court, or a position of a similar character, where it was necessary for him to state who the real owners of that property were, that he was not to hesitate one moment to state that the Standard Oil Company owned it.

Q. But he was not to state that unless he was compelled to?—A. Unless there were good reasons for doing so.

Q. Unless he was compelled to?—A. No, sir; unless there were good reasons for doing so. On the contrary, I distinctly told Mr. Lines myself that under no circumstances was he to misrepresent the facts by stating that he was not——

Q. Well, you knew that he was operating the Home Company as an apparently independent company, didn't you?—A. The Home Company? Yes, sir.

9577 Q. And that its connection with the Standard Oil was kept secret from the trade?—A. For the reasons which I have already expressed.

Q. Well, I just ask as to the fact. Now, how many more concerns did you have in Ohio that you were operating and which you kept secret?—A. Not any.

Q. Not any?—A. Not any of that character.

Q. What about the Toledo Oil Works?—A. That was a jobbing concern.

Q. You kept the ownership of that secret, didn't you?—A. Oh, no.

Q. You did not?—A. Did not attempt to do so.

Q. You did not advertise that it was a Standard Oil concern, did you?—A. No, sir.

Q. When did you buy the Toledo Oil Works?—A. (Referring to memorandum.) I do not find the information here in this memorandum; but if you wish it, I can secure it for you.

Q. You did buy it?—A. Yes, sir.

Q. And operated it for some time, didn't you?—A. Yes, sir.

Q. Several years?—A. A few years.

Q. At what places?—A. Toledo.

Q. What?—A. Main office at Toledo.

Q. Did it operate throughout the State, in various places?—A. I think it sold oil in various places.

Q. In various places throughout the State?—A. In the northern part of the State.

Q. Now, when you bought it, you sent a man there to take
9578 charge of it, didn't you, from your office?—A. Possibly.

Q. Mr. Carl T. Kirk?—A. Oh, no; he was one of the owners.

Q. He was one of the owners. Who else did you send there?—A. I could not tell you.

Q. A man by the name of Dumbledinger?—A. We might have sent a clerk there.

Q. Didn't he go there to take charge of the office?—A. I guess not.

Q. Anyhow, you operated that as an independent concern, didn't you?—A. We operated it for its good will, feeling that we had a right to do so in competition with others for barrel business.

Q. For barrel business?—A. Yes, sir.

Q. But you did not let it be known that the Standard Oil Company owned it?—A. No, sir.

Q. Now, I ask you how many more concerns of that kind you also operated?

Mr. ROSENTHAL. He named one other yesterday—the American, wasn't it?

WITNESS. The New American.

Q. The New American?

Mr. ROSENTHAL. Those two, the Toledo and the New American, I asked him about on his direct examination.

Q. You purchased the New American about 1897, you said?—A. I think it was about that date.

Q. And you ran it for about four years?—A. I think that is right.

9579 Q. You ran that as an independent concern, too, did you?—A. Yes, sir.

Q. You did not advertise that that belonged to the Standard?—A. No, sir.

Q. That was the Stark concern?—A. He was one of the owners; yes, sir.

Q. Now, isn't it a fact that that company made a specialty of going after the business of your competitors?—A. They made a specialty of going after the barrel business.

Q. Of your competitors.—A. Of all the trade.

Q. Did it solicit your business?—A. It did, and that is the reason why we discontinued it.

Q. When did you discontinue it?—A. I should say about 1901, somewhere in that neighborhood.

Q. Now your correspondence wherein you objected to their selling to your customers, occurred in October, 1897, didn't it?—A. I could not tell you the date.

Q. There was such correspondence, wasn't there?—A. There was correspondence probably of a similar character constantly during the whole period.

Q. You did not discontinue it then for a term of four years?—A. It got very aggravating. We had to do it.

Q. It got very aggravating. What you wanted them to do was to go after your competitors?—A. We wanted them to solicit the barrel business.

Q. From your competitors?—A. From everybody.

Q. Did you ask them to solicit barrel business of your
9580 customers?—A. Yes, sir.

Q. You did?—A. They were privileged to sell any person that sold barrel oil.

Q. You were not selling barrel oil where the New American was doing business, were you.—A. Oh, yes; we would sell barrel oil in any town, if a man wanted to buy it.

Q. You did not sell it, did you, in Mansfield?—A. We sold it wherever there was a trade for it.

Q. Did you sell much in Mansfield?—A. I presume we did.

Q. You presume you did?—A. If there was any trade there, we certainly solicited it and sold it if we could.

Q. Have you looked over these letters of Mr. Stark that you explained yesterday?—A. I have read them.

Q. I notice in one letter Mr. Stark apologizes and gives a reason why he sold a Mr. Downs. Had Mr. Hoag objected to his selling to Mr. Downs?—A. I could not tell you.

Q. You don't know?—A. Mr. Downs may have been a tank-wagon purchaser.

Mr. ROSENTHAL. You say Mr. Downs might have been a tank-wagon purchaser?

WITNESS: Customer.

Q. You read a line or two from this letter of Mr. Stark, dated October 21, 1897, yesterday, I believe?—A. Yes, sir.

Q. The next sentence reads: "My private judgment is that the general interest would be much better served were it made apparent
occasionally that there was more or less friction between your
9581 company and ours. By this means our efficiency would be enhanced, and we would be better able to allay the suspicion

that is so often manifested on account of our apparent apathy in connection with our efforts to get business." How did you understand that?—A. That is his opinion.

Q. That is his opinion?—A. It was that sort of thing that we had to thrash out with him in order to get him to do the business the way we wanted it done.

Q. And yet for four years after that he went on doing business for you?

Mr. ROSENTHAL. What is the date of that letter?

Mr. KELLOGG. October, 1897.

Q. For four years he went on doing business for you?—A. I haven't any doubt but what it was the result—or rather the most of our trouble with him was in the early history, when he first came with us, to get him into line to sell the oil, and the trade that we expected him to canvass and sell.

Q. And for four years you kept the ownership of the New American Oil Company secret?

Mr. ROSENTHAL. He has not said that.

Q. Isn't that true?—A. Why, I don't know as there was any particular object in keeping it secret.

Q. You did keep it secret from the trade, didn't you, for four years after that?—A. We did not advertise it.

Q. You did not advertise that you owned it?—A. It was
9582 generally—I think it was generally understood by all of our competitors that the Standard Oil Company owned it.

Q. But the trade did not so understand it?—A. I think most of them did.

Q. You think most of them got on to it?

Mr. ROSENTHAL. That is not what he said. That is what you said.

Q. You say you don't recall any other individual companies?—A. I did not say that.

Q. If you do, just give us the names of them.

Mr. ROSENTHAL. What is your question now, Mr. Kellogg?

Q. Any other independent companies; that is, apparently independent, that you owned and operated in Ohio?—A. At what time?

Q. Oh, during the years from 1896 to 1905.—A. I couldn't tell you.

Q. Do you remember the Mutual Oil Company of Dayton?—A. No, sir; I do not.

Q. You don't remember that. Do you remember a peddling concern run under the name of Morgan at Oberlin?—A. No, sir; I do not.

Q. Do you remember another one run under the name of Jeremiah, at Youngstown?

Mr. ROSENTHAL. He has testified to that.

A. Jeremiah was a peddler that we sold to at Youngstown.

Q. Did you own the business?—A. No, sir.

Q. You sold him his oil?—A. Yes, sir.

9583 Q. Do you remember the Republic Oil Company?—A. I do.

Q. Doing business in Cleveland, Ohio?—A. Yes.

Q. The Standard Oil owned that, didn't it?—A. I don't know.

Q. You don't know?—A. No, sir.

Q. You never knew whether the Standard owned it or not?—A. Never.

Q. It was operating there as an independent concern, wasn't it?—A. It was operating there as a pretty sharp competitor with us.

Q. Who operated it?—A. Mr. Walter Teagle.

Q. Don't you know that Mr. Teagle testified in this case that the Standard Oil Company owned it?—A. I do not know.

Q. You do not know?—A. No, sir.

Q. You knew the concern of Scofield, Shurmer & Teagle, didn't you?—A. Yes, sir.

Q. Did you know they sold out to the Standard?—A. I did not.

Q. You did not know it?—A. No, sir.

Q. You never heard it?—A. I may have heard of it.

Q. When did you hear of it?—A. I could not tell you, sir.

Q. But you never knew that it sold out to the Standard Oil Company?—A. I don't know to this day that it did.

Q. You don't know it to this day?—A. No, sir.

Q. When did you hear of it?—A. Oh, I might have heard of it immediately when they went out of business.

Q. From whom did you hear it?—A. I think it was published in the newspapers.

Q. Did the Republic Oil Company appear immediately
9584 thereafter?—A. I believe so.

Q. And you did not know that the Republic Oil Company belonged with the Standard Oil Company?—A. I did not, no, sir.

Q. And you never did know it?—A. No, sir.

Q. And you don't know it now?—A. No, sir, I don't know it now.

Q. You never informed yourself on that subject?—A. No, sir, never.

Q. Did you ever remember the Argand Refining Company of Marietta, Ohio?—A. Yes, sir.

Q. Did you know that the Standard Oil Company bought that?—A. I did not.

Q. Did you know that it leased it and operated it for a number of years?—A. I did not.

Q. You never knew anything about that?—A. No, sir.

Q. You supposed that was an independent, too, didn't you?—A. I did.

Q. Did you ever hear of the Protection Oil Company of Cincinnati?—A. No, sir.

Q. Never heard of it?—A. No, sir. I had nothing to do with the Cincinnati field.

Q. You never had anything to do with the Cincinnati field. Is Cincinnati in your territory now?—A. It is now, yes, sir.

Q. Did you ever hear of the Great Western Oil Works of Cleveland?—A. That is Scofield, Shurmer & Teagle. Are you now referring to the present time?

Q. No, I am not referring to the present time.—A. Well, the
9585 Great Western Oil Works was the trade name of Scofield, Shurmer & Teagle.

Q. There were a large number of peddlers throughout Ohio which your company furnished the money to start, were there not?—A. Oh, we may have furnished money to some who wanted to start in business, by giving them equipment which we had, and taking a mortgage back on the equipment. That was the common practice.

Mr. ROSENTHAL. The common practice, you mean, in the trade generally?

WITNESS. Yes, sir; not only by the Standard Oil Company, but by others.

Q. Now, you were selling to the merchants generally, to the retail merchants, were you not?—A. Yes, sir.

Mr. ROSENTHAL. And peddlers also?

WITNESS. Oh, yes.

Q. And peddlers; and you started in business a large number of peddlers in Ohio, didn't you?—A. For the purpose which I have already explained.

Q. Those peddlers were not known to be controlled or owned by the Standard Oil, were they?—A. For the reasons which I have already explained.

Q. Well, that is true, isn't it?—A. As I have explained it, it is true.

Q. How many of those peddlers did you have going at any one time?—A. I could not tell you.

Q. Several hundred?—A. Oh, no.

9586 Q. Well, a great many, hadn't you?—A. Several.

Mr. ROSENTHAL. What peddlers do you mean, Mr. Squire? What peddlers have you reference to?

WITNESS. I assume that Mr. Kellogg now has reference to the can-peddling business.

Mr. ROSENTHAL. Well, he is not. He is referring to peddlers who go out and do business for themselves under their own names as independent peddlers. I thought that you and he were not talking about the same thing.

Q. I will get at it. You have reference to can peddlers?—A. Yes, sir.

Q. Which you owned and controlled?—A. Yes, sir.

Q. But which were not known to belong to you?—A. For the reasons which I have explained.

Q. You have stated the reasons various times, Mr. Squire. Now, if you will just state the facts——A. I want to make it clear.

Q. Of course you do. I know you are very anxious to make it clear. There is no doubt about that.

Mr. ROSENTHAL. Well, he is doing it.

Q. You did own a large number of peddlers which you did not make known to the public as being owned by the Standard Oil Company, did you?

Mr. ROSENTHAL. What peddlers?

WITNESS. Not outside of the can-peddling business.

Q. How many in the can-peddling business?—A. I could not tell you how many there were.

9587 Q. What do you think?—A. I have no thought about it.

Q. No idea?—A. We owned and controlled them all, whatever there were.

Q. Well, 10, 15, 20, or 30?—A. I could not tell you.

Q. 50?—A. I could not tell you how many there were. I don't know.

Q. Haven't any idea. Now, you say you started the can business as an experiment, to eliminate the retail merchant?—A. We started the can-peddling business for the express purpose that I have explained and no other.

Q. What was that purpose?—A. To reach the consumer and give him oil at a lower cost.

Q. Will you tell me why all these can peddlers and concerns that did can business—why their ownership was kept secret from the trade?—A. I have already stated that in my previous statement.

Q. State it again.—A. That it was done for the purpose of not antagonizing the trade until we had decided whether the can-peddling business was a success and practicable.

Q. Did you ever decide that?—A. We did, as I have already stated.

Q. You abandoned it?—A. We have.

Q. When did you abandon it?—A. I have already given you that information.

Q. Give us the date again.—A. As fast as the equipments wore themselves out they were not renewed, but went out of use.

Q. You abandoned it about 1905, didn't you?—A. No given

9588 date. It has been gradual.

Q. Have you run one of them since 1905?—A. Oh, yes.

Q. Where?—A. Cleveland.

Q. How long since?—A. We are running them now.

Q. Running them yet, are you?—A. Yes, sir.

Q. I thought you said you had abandoned them?—A. Not at Cleveland and Youngstown. I said in my statement that we were running them at Youngstown and Cleveland.

Q. Under whose direction did you start the can business?—A. Under whose direction?

Q. Yes. Did you originate the scheme?—A. I think I did.

Q. You think you did?—A. I am largely responsible for it.

Q. Who was responsible for it in the various other parts of the United States where the can business has been run?—A. I know nothing about that.

Mr. ROSENTHAL. They probably adopted his good idea.

Q. Now, as to other peddlers, how many other peddlers did you have in Ohio?—A. That we owned?

Q. Yes.—A. I don't know of any.

Q. There were various other peddlers which you furnished the money to start, weren't there?—A. There might have been some that we sold equipments to that we had in stock, that we had taken for debt, glad to dispose of it. We occasionally took a chattel morgage back.

Q. Were there various peddlers that you furnished the money to start?—A. I recall none that we furnished the money to start.

Q. You say that Mr. Castle was discharged because he per-
9589 sisted in paying rebates to merchants and peddlers throughout the State of Ohio; is that correct?—A. I stated that he was discharged because he would not obey instructions.

Q. What instructions?—A. Instructions that he was not to make special arrangements.

Q. For rebates?—A. Discounts.

Q. Or discounts?—A. Yes, sir.

Q. Or rebates either?—A. Well, I don't know what you mean by rebates.

Q. You don't know what I mean by rebates. Well, where a customer bought oil, paid your market price, and then received back a part of the consideration, that is what I mean by a rebate.—A. That is what we would call a discount.

Q. That is what you called a discount?—A. For the reason that there were accounting features which would be complicated if it was done in any other way. Sales being made for cash, if we permitted our tank-wagon drivers to make such discounts, we would be breeding dishonesty.

Q. So you had your tank-wagon drivers collect the full price?—A. Certainly.

Mr. ROSENTHAL. In those instances.

WITNESS. In those instances.

Q. In those instances. And then your company rebated or paid back to the merchant a part of the price he paid?

Mr. ROSENTHAL. Well, discounted.

WITNESS. We gave them credit and paid them monthly, according to the understanding.

9590 Q. You paid them back?—A. We remitted to them, probably monthly.

Q. Now, you calling it a discount and I calling it a rebate, you say Mr. Castle was discharged because he persisted in granting those?—A. Yes, sir.

Q. Will you tell me when he was discharged?—A. September 30, 1900 [referring to memorandum].

Q. September 30, 1900. Now, the letter you referred to, where he reported to your company that he had a large number of arrangements then in existence for rebates was dated April 26, 1898, was it not?—A. I think it was.

Q. Why didn't you discharge him immediately?—A. I had a good notion to.

Q. You had?—A. Indeed I had.

Q. But you had another notion that beat that, I suppose?—A. At that time, when that report was made, Mr. Castle was called to Cleveland at my request, and a demand was made upon him to furnish us with a list of all such private arrangements that he had made; and when we saw to what extent he had made those arrangements, he was given to distinctly understand that under no circumstances would it be tolerated thereafter, but that he must make reports of any cut prices that were made to the trade, and then leave it to the manager of that field to decide what should be done; but Mr. Castle did not follow those instructions.

Mr. ROSENTHAL. You mean cut prices by competitors?

WITNESS. Certainly, and his discharge was three months
9591 prior to this date. His time was given him—three months' time was given him for the purpose of not injuring his character; but he was discharged by me, and I told him in my office why he was discharged, because he was not following instructions and obeying orders.

Q. Now, I suppose the payment of rebates to merchants shocked you very much, did it?—A. It was contrary to our policy for anyone to make concessions in the price until the manager had made an investigation and found out for himself that it was warranted and then made a recommendation to his superior officer before the cut price should be met.

Q. Then your managers had authority to do that?—A. They did not.

Q. Well, who did?—A. I did.

Q. Did you do it?—A. I never authorized a man to cut a price below a competitor. On the contrary, currently, constantly called his attention to the fact that we must not make any reduction in the price except after having positive evidence that the competitor was making cut prices and it would be necessary for us to meet that price to hold our trade.

Q. Then you had authority, and did grant rebates, did you?—A. I authorized our field people, whenever they produced proof of the competitor taking business by cutting prices—I gave them authority to meet such cut prices and retain their business.

9592 Q. Why didn't you reduce the market price, instead of meeting it by rebate?

Mr. ROSENTHAL. He has not said he met it by rebate.

WITNESS. I have not said that I met it by rebate.

Q. You met it by payments back, didn't you?

Mr. ROSENTHAL. He has not said that.

WITNESS. Not in these cases.

Q. Or discounts back?—A. Nor discounts.

Q. You never authorized a discount in the State of Ohio?—A. I didn't say so.

Q. Well, have you authorized discounts in the State of Ohio?—A. Certainly.

Q. I mean such discounts as you have explained.—A. Where local conditions warranted, they may have been made.

Q. Then it is a fact that you did in many cases authorize discounts of the kind you have described?

Mr. ROSENTHAL. He has not said so.

WITNESS. As a general proposition, no.

Q. As a general proposition—but did you in various cases?—A. We have, in certain cases, where the local conditions warranted it by reason of competition.

Mr. ROSENTHAL. By reason of the competitor cutting prices.

WITNESS. Cutting prices; yes, sir.

Q. Oh, certainly; of course you never cut a price; we understand that thoroughly!

Mr. ROSENTHAL. That is the sworn testimony.

Mr. KELLOGG. Of this man.

Mr. ROSENTHAL. And of a great many others contrary to
9593 your unsworn statements.

Q. Now, where Mr. Castle made these arrangements the merchant paid for the oil from the tank wagon, or paid the tank-wagon driver as he received the oil, didn't he?—A. I presume he did.

Q. The full market price?—A. Yes, sir.

Q. And then at the end of the month he claimed his discount, did he?—A. I have already answered that.

Q. Well, did he, at the end of the month or the end of the week?—A. I have already told you that he was given credit, and at certain periods it was remitted to him.

Q. Was remitted to him?—A. Yes, sir.

Q. What were the periods?—A. I could not tell you.

Q. You don't know?—A. No, sir.

Q. Wasn't it done every month?—A. It might have been every month.

Q. Then your office would know every month what rebates Mr. Castle was paying, wouldn't it?—A. Yes, sir.

Q. And in spite of that fact, for a year and a half or two years after this report he remained in your office granting rebates?—A. I did not say so.

Q. He did remain in your office, didn't he?—A. Yes, sir.

Q. In your employ?—A. Yes, sir.

Q. And during that time he carried out those arrangements, didn't he?—A. We did.

Q. You did, during that year and a half?—A. No; we did during the period of the time which those agreements, those
9594 special arrangements which he made covered.

Q. Why did you need to call on Mr. Castle for this report, when your books showed every month the settlements?—A. It was that way that we found out that Mr. Castle was making these special arrangements. When the auditor examined our books and filed his report with me, it was then that I discovered that these special arrangements were being made.

Q. You yourself had made such arrangements or authorized them, hadn't you?—A. That is another thing.

Q. That is another thing; but you did not propose to let Castle do it?—A. Not unauthorized.

Q. Then the auditor must have known from his books everything there was in this letter, didn't he?

Mr. ROSENTHAL. He did not say that. He said that the auditor must have known from his books about the payment of the discounts. Whether he knew everything that was in that letter is a different proposition.

Q. Your auditor knew all these discounts that were being allowed, didn't he?—A. The auditor, as I have said before, reported to me the discounts that were being made, the special arrangements that were being made by Mr. Castle, on account of special discounts which were appearing as credits on the customers' accounts.

Q. Now, you stated this morning, as I understood you, that the prices at Lorain, Ohio, during 1904 and down to the present time increased and decreased according to the price of crude?—A. And the cut price made by Castle.

9595 Q. And the cut price made by Castle. Well, now, which was it? The price of crude or the cut price?

Mr. ROSENTHAL. He explained in his direct testimony the particular times when the reduction was due to the cut price and when it was due to the reduction in the price of crude.

Q. Well, every one of them in Lorain was on account of the price of crude, as he testified?—A. Oh, no; I did not so state.

Q. Which ones were on account of the cut price made by Castle?—A. I have given that information this morning.

Q. Haven't you got it before you there?

(Witness refers to memorandum.)

Q. The prices in Lorain.—A. I stated that the decline——

Q. Now, wait a minute. I will ask you about each one. March 3, 1904; price, 10½ cents. Was that decrease made on account of Castle?—A. I was not aware that I made the statement that there was any decline at that time.

Q. It had been 11 cents during the winter, hadn't it?—A. I could not tell you.

Q. You don't know. Well, April 14, 1904, 10 cents. Was that on account of Castle?—A. No, sir.

Q. Decrease in price of crude?—A. Yes, sir.

Q. June 5, 9½ cents?

Mr. ROSENTHAL. June 5 of what year?

Q. 1904 these all are.

Mr. ROSENTHAL. He did not give that date. June 10, as I understand, 9½.

9596 Q. Well, June 10, then, 1904; Castle or price of crude?—A. Price of crude.

Q. September 2, 1904, an increase to 10 cents?—A. Advance in crude.

Q. December 1, 1904, 9½ cents?

Mr. ROSENTHAL. December 17.

Q. December 17, 1904, 9½ cents?—A. Due to a decline in crude.

Q. January 5, 1905, 8 cents?—A. January 10.

Q. January 10, 1905, 8 cents?—A. I made the statement that that price was made on account of our having satisfied ourselves that Mr. Castle was selling at 8 cents and taking trade from us, and also to a decline in crude, principally on account of Mr. Castle making the 8-cent price.

Q. February 3, 1905, 7½ cents?—A. Due to crude.

Q. Decline in crude?—A. Due to a decline in crude.

Q. April 22, 7 cents?—A. The same reason.

Q. Decline in crude?—A. The same reason.

Q. Which same?—A. Due to a decline in crude.

Q. September 8, 1905, 7½?—A. September 18.

Q. September 18.—A. An advance in crude.

Q. Due to an advance in crude. November 9 to 8 cents?—A. Advance in crude.

Q. April 16 to 8½ cents?—A. Advance in crude.

Q. August 9, 1906, to 8 cents?—A. Decline in crude.

Q. August 20, 7½?—A. Decline in crude.

Q. March 21, 1907, 8 cents?—A. Advance in crude.

Q. January 24, 1908, 7½ cents?—A. Yes, sir. I have no 9597 information on that.

Q. Now, the declines in Lorain in September and October, 1904, were on account of the decline in crude, you say?—A. What were the dates?

Q. September and October, 1904.—A. I did not say that.

Q. You certainly said September 2, 1904?—A. That was an advance in crude, not a decline.

Q. Oh, December 17, 1904, you said was a decline in crude?

Mr. ROSENTHAL. Of a half cent.

Q. Now, where is Lorain? How far from Cleveland?—A. About 30 miles.

Q. And the price of oil in Cleveland at that time was what?—A. At what date?

Q. September, October, November, and December, 1904.—A. 7 cents.

Q. Well, is there 3 cents difference or 2 cents difference of freight rate between Cleveland and Lorain—2 cents a gallon?—A. The difference accounted for there was due to the competition of Mr. Castle, cutting prices at Cleveland.

Q. Oh, that was competition. Now, during the month of October, I notice from an exhibit in evidence furnished by the Standard Oil Company——

Mr. CAMPBELL. What year is that?

Q. October, 1904—that oil was selling at Ashtabula at 10½ cents. Is that because there was no competition there?—A. That would be due to local conditions and competition.

Q. Is there any reason, except competition, why oil should sell——

9598 Mr. ROSENTHAL. What exhibit is that, Mr. Kellogg?

Q. Government Exhibit 391. Is there any reason why oil should sell in Ashtabula at 10½ cents and in Cleveland at 7, except that of competition?—A. There might be local reasons and conditions.

Q. And what are they?—A. Cost of making deliveries.

Q. Was there any such reason?—A. Why, I presume there is.

Q. Do you know whether there is or not?—A. I don't know; no, sir.

Q. You don't know. Well, take Mansfield. I notice oil was selling in Mansfield at 8¼ cents in October, 1904, and in Ashtabula at 10½. Can you explain that difference?—A. Why, I presume the competitor cut the price in Mansfield and made that price.

Q. From competition?

Mr. ROSENTHAL. That is not what he said. He said the competitors cut the price.

Mr. KELLOGG. Of course.

Mr. ROSENTHAL. Governmental unfair competition.

Q. As a matter of fact, did the price of oil decline in Ashtabula at all during the fall and winter of 1904–5?—A. I couldn't tell you.

Q. You don't know?—A. No, sir.

Q. Did it decline in Youngstown?—A. When?

Q. In the fall of 1904 and the winter of 1905.—A. (Referring to memorandum.) On September 26, 1904, it was 9½ cents.

9599 Q. When was this?—A. September 26, 1904, it was 9½ cents.

Mr. ROSENTHAL. That is just what it was in Lorain.

A. January 10, 1905, it was 8½.

Q. Wasn't it on September 28 8½ in Youngstown?—A. No, sir. That is September 28, 1904, Mr. Kellogg?

Q. 1904; yes, sir. I show you a tank-wagon ticket dated 9,28,04.

Mr. ROSENTHAL. August 28, '04?

Q. No, 9th—September 28, '04. He spoke about September 26.

Mr. ROSENTHAL. At what price on September 26?

Q. For 8½ cents a gallon. Is that a Standard Oil ticket?

Mr. ROSENTHAL. Where, Mr. Kellogg?

Q. Youngstown, Ohio.—A. I don't see where it says Youngstown.

Q. It is a Youngstown ticket.—A. It does not say Youngstown.

Mr. POOL. It says Yo at the top.

Q. It has Yo, 9,28,04, and it came from Youngstown.—A. Well, I could not identify it that way.

Q. You could not identify it?—A. No, sir.

Q. You don't know whether that is correct or not?—A. No, sir.

Q. Do you know a man by the name of G. Dally?—A. I do not. But if so, it would be perfectly proper. The price would be right, because it calls for Prime White oil.

Mr. ROSENTHAL. Prime White oil?

WITNESS. Yes, sir.

Mr. ROSENTHAL. And your 9½ cent price was Water White, wasn't it?

WITNESS. Yes, sir.

9600 Q. Were you selling anything but Prime White oil in Youngstown at that time?—A. Oh, yes; I presume so; undoubtedly. We sell three grades.

Q. Was not Prime White oil the price you made it on?—A. Mr. Kellogg, if you will pardon me, I may be able to assist you in shortening it.

Q. Wait until I ask your assistance.—A. All right.

Mr. ROSENTHAL. Go right ahead and finish your answer.

WITNESS. We sell three grades of refined oil, Eocene, Water White, and Prime White.

Mr. ROSENTHAL. Which is the highest grade?

WITNESS. The Eocene.

Mr. ROSENTHAL. And what next?

WITNESS. Water White is the next. Water White is the grade commonly used. Prime White oil is the common grade.

Q. What is the difference in the price of the three?—A. One cent, usually.

Q. One cent between each of the grades?—A. Yes, sir.

Q. When did you say Mr. Castle started business in Cleveland?—A. (After referring to memorandum.) January 1, 1901.

Q. Didn't he start there in the fall of 1900?—A. Not according to my memorandum.

Q. Where did you get your memorandum?—A. From our records.

Q. From your records. Do you keep a record of when Mr. Castle started in business?—A. We keep a record of all such things.

Q. Who furnished it to you?—A. We get it in a promiscuous way.

9601 Q. Now, you say about January 1. Do you mean a month or two later or a month earlier, or what do you mean?—A. I mean January 1.

Q. About that date?—A. About that date; yes, sir.

Q. You don't know that he didn't start in in September?—A. I should say not.

Q. When did he leave your employ?—A. 30th of September, 1900.

Q. And immediately went into business, didn't he?—A. He went into business, according to my memorandum here, about January 1, 1901.

Q. Now, in September, 1900, what was the price of oil in Cleveland?—A. 4½ cents.

Q. 4½ cents. Now, Mr. Castle testifies that he went in business immediately after he severed his connection with your company. How long had the price been 4½ cents?—A. It went into effect September 11.

Q. Mr. Castle, you say, was discharged three months before that?—A. He was given three months' notice.

Q. Three months' notice?—A. And his three months ended September 30, 1900.

Q. What was the price of oil during September, 1900, previous to that?—A. July 30, 4¾ cents.

Q. Previous to that have you got the record?—A. July 18, 5 cents.

Q. Go on.—A. July 10, 5½; July 2, 6.

Q. Go on back.—A. July 22——

Mr. ROSENTHAL. Give it to him back to January, 1900, and then come down to January, 1901, and give it to him from 1901.

9602 Mr. KELLOGG. He has given the rest.

WITNESS. I have given all of these figures before, I believe.

Q. Except 1900, which you didn't give. You commenced December, 1900. What was it in January, 1900?—A. 9 cents.

Q. Give the rest of them during that year.—A. April it was 8½, then to 8 in April; June 12th, 7¾; June 15th, 6¾; June 19th, 6½; June 22nd, 6¼.

Mr. ROSENTHAL. Now give them from September on.

Mr. KELLOGG. He gave them this morning.

Mr. ROSENTHAL. Let us have them all together.

WITNESS. September 11th, 4½; December 4th, 5; December 29th, 5½; January 29th, 1901, 6½; January 19th, 1901, 6¼; February 15, 1901, 6½; July 22, 1901, 7; October 1, 1901, 7½; October 23, 1901, 7.

Q. The decrease in price to 4½ cents was caused by what? Decline in crude?—A. I have no information here.

Q. Well, it wasn't a decline in crude, was it?—A. Either a decline in crude or to meet cut prices which might have been made by some competitor.

Q. You don't know the cause of the decrease to 4½ cents?—A. No, sir; I do not. I said that undoubtedly it would be due to a change in crude oil or cut prices that might have been made by a competitor.

Mr. ROSENTHAL. There was a constant upward trend there of the market from the time that Castle began, wasn't there?

WITNESS. Yes, sir; but Mr. Kellogg was calling attention to the 4¾ and 4½.

9603 Mr. ROSENTHAL. Oh, I see.

Q. The price of crude did not justify your selling oil in Cleveland at 4½ cents, did it?—A. I couldn't tell you.

Q. Did you make any profit on it at 4½ cents?—A. I couldn't tell you.

Q. Your company keeps an accurate account showing the cost of marketing, doesn't it?—A. Practically; yes, sir.

Q. And showing the cost of the oil to the company?—A. They make up cost statements once a year.

Q. Now, do you keep a separate account for your marketing department?—A. I think we do.

Q. That is, you charge the marketing department a certain price for the oil?—A. Yes, sir.

Q. That leaves your refinery department separate?—A. Yes, sir.

Q. Now, I will ask you if you were making any money selling that oil at 4½ cents a gallon?—A. I couldn't tell you.

Q. You don't know?—A. Not now.

Q. Haven't you any idea at all?—A. No, sir.

Q. Don't you know at what price you can sell oil and make money?—A. I don't know what the conditions were at that time, the prices of crude, or the cost of marketing, or anything about it.

Q. Were there any conditions that would make that oil, at 4½ cents, a profit to you?—A. I couldn't tell you.

Q. You don't know?—A. No, sir.

Q. Have you any idea?—A. I have already answered it.

9604 Q. Don't you keep close track of the cost of manufacturing oil and the cost of selling it and the profits of your company?—A. I have told you that we make up cost statements once a year.

Q. And you know just how much profit your company has made?—A. At the end of the year; yes, sir.

Mr. ROSENTHAL. We know that it isn't much.

Q. Well, let us see about that. Don't you keep track at the time you are selling oil so as to know whether you are selling at a profit or a loss?—A. It depends upon whether we want to hold our business against competition.

Q. Oh, yes. You keep track of the fact just the same, don't you, whether you are making money or whether you are losing money?—A. I presume we do.

Q. Now, you say that you don't know what the cause of that price of oil was?—A. Not now.

Q. How do you happen to know so accurately the exact cause of the decreases of half a cent and the increases of half a cent in Lorain and can not give us any idea of the cause in Cleveland?—A. Because I have looked it up.

Q. Oh, you have looked up just what you want to know?—A. I have looked up the information that——

Q. That you want to testify to?—A. That would answer the questions that have been brought out in this investigation.

Q. I suppose you could not conceive that the decreases of 4 and 5 cents in Cleveland could be material at all in this case, could you?—A. I don't know as I understand your question.

9605 Q. I suppose you did not conceive that the decreases in prices in Cleveland of 4 and 5 cents, 50 per cent in six months, would be material?—A. I have already answered that question by telling you that the price there depended upon the competition, the cutting of prices.

Q. Were you operating the Cleveland Oil Delivery there at that time?—A. At what place?

Q. In Cleveland, in 1900.—A. No, sir.

Q. You were not?—A. No, sir.

Q. Were you operating peddlers?—A. No, sir.

Q. You were selling to a great many peddlers?—A. Yes, sir.

Q. Were there any peddlers that you had furnished the money for at that time?—A. Not that I know of.

Q. One reason why you started the can-peddling business to the consumer was that the retail merchants were making an unreasonable profit?—A. Did I say that?

Q. I understood you so.

Mr. ROSENTHAL. I don't think he so testified.

Q. You didn't testify to that?—A. No, sir.

Q. They were not making an unreasonable profit?—A. I didn't say so.

Q. Were they or were they not?—A. I said they were making from 50 to 100 per cent profit.

Q. And you thought it would be a good plan to cut that profit out, did you?—A. I said I felt we might save one-half of that cost to the consumer.

9606 Q. It was solely to save money for the consumer that you started it?—A. Oh, Mr. Kellogg, it goes without saying that if any merchant or any manufacturer can do anything that is going to be of benefit to his customer, it is going to be for his benefit as well.

Q. Did you consider 50 per cent profit too big a profit for them?—A. I didn't say so.

Q. Do you now consider it too large a profit?—A. I think it is the duty of every manufacturer and merchant, if he can reduce the cost to the consumer and benefit himself, that it is a wise business thing to do.

Q. Do you think 50 per cent profit too much?

Mr. ROSENTHAL. I object to that. I object to the witness guessing or expressing an opinion as to what he thinks is a proper or an improper profit for the retail merchant. I don't think he is under any obligations to answer it or to express his opinion about it.

Q. Will you answer the question?—A. What is the question?

Q. Do you think that 50 per cent profit to the retail merchant is too much?—A. I have no thought on the subject.

Q. Do you think it is to the manufacturer?

Mr. ROSENTHAL. I object to that for the same reason.

Q. Did you think it was to the manufacturer?—A. I had no such thought.

Q. You had no thought about it, one way or the other?—A. I have already expressed just exactly what we desired to accomplish and the reasons for it.

9607 Redirect examination by Mr. ROSENTHAL:

Q. Let us fix again the time when Castle started in Cleveland. Was that about January 1, 1901?—A. Yes, sir.

Q. I find from this list of prices that you have given, Mr. Squire, that the September price was 4½ cents.—A. September, 1900?

Q. Yes, sir.—A. Yes, sir.

Q. And that from that time on up to October 1, 1901, there was a gradually steady increase in the price with but one exception until October 1, 1901, when it reached 7½ cents. Is that correct?—A. Yes, sir.

Q. And that one exception was a change of a quarter of a cent in January, 1901?—A. Correct.

Q. That is right, is it?—A. Yes, sir.

Q. So that the fact about the matter is, from the time he started up to the present time—well, up to 1903, say (my records go that far), there was a steady increase in price?—A. Yes, sir.

Q. Your attention has been called to the operation by the Standard Oil Company of Ohio of two or three concerns like the Toledo Oil Company and the New American Oil Company, which were purchased by the Standard and whose businesses for several years thereafter were retained by the Standard under those names. State whether or not that practice is unique with the Standard Oil Company, or whether it is a common practice in your trade.—A. It is a common practice in the trade.

Q. Do you know of other companies that have done the same
9608 thing frequently?—A. Yes, sir.

Q. Can you name them?—A. The National Refining Company of Findlay; Canfield Oil Company of Cleveland.

Q. The National Refining Company of Cleveland is the parent concern, is it?—A. Yes, sir.

Q. Do you know of companies that it has operated, owned by it under names other than the National Refining Company, and without disclosing to the trade the fact that it was the owner?—A. Yes, sir.

Q. Name them, please.—A. Atlas Oil Company and the Globe Oil Company.

Q. Where was the Atlas Oil Company operated?—A. At Cleveland.

Q. And the Globe?—A. Cleveland.

Q. By what concern—the National Refining Company?—A. They operated under their own trade name.

Q. That is, the National Refining Company owned those two companies?—A. Those two companies.

Q. But operated them in Cleveland under the name of the Atlas Oil Company and the Globe Oil Company?—A. That is the way we understand it.

Q. Do you know of any other cases? How about the Northern Oil Company?—A. The Columbia Refining Company, Mr. Castle's company, has two, known as the Commercial Oil Company and the Studley Refining Company.

Q. Where does the Commercial operate?—A. Cleveland.

Q. And the Studley Refining Company?—A. Cleveland.

Q. And those are controlled by the Columbia Refining Com-
9609 pany?—A. We understand they are owned by Mr. Castle.

Q. Do you mean to say that Castle is operating three companies under three separate and distinct names in Cleveland?—A. I believe he admitted that on your cross-examination at Cleveland.

Q. Any others?—A. Well, most all of them have——

Q. What is the Canfield Oil Company of Cleveland?—A. Quite a large refiner.

Q. And do you know of companies which they own or control and operate under names other than the Canfield Oil Company?—A. (After referring to memorandum.) The Clinton Oil Company, the Euclid Oil Company, the Glenn Oil Company, the Empire Oil Company.

Q. And where are those governmental bogus oil companies operated?—A. Cleveland.

Q. All owned by the Canfield Oil Company?—A. As we understand it.

Q. Has the Canfield Oil Company a refinery at Coraopolis?—A. Yes, sir.

Q. Now, you have named the Atlas and the Globe as being operated by the National. Do you know of any others that the National operated?—A. The National Pipe Line, Peerless Transit Line, Northern Oil Company. There are a number of tank-line companies, the Evansville Tank Line Company and others, that do a marketing business locally.

Q. Those have come under you immediate notice right there in your city?—A. Yes, sir.

9610 Q. Mr. Kellogg asked you this morning about sales made by the Standard Oil Company of Ohio to other Standard Oil companies outside of the State. Including those sales—that is, the sales made to other Standard Oil companies outside of the State of Ohio—how much of the business of the Standard Oil Company of Ohio (stating it in percentage) is done outside of the State?—A. About 7 per cent.

Q. 7?—A. During that period.

Q. About 7 per cent?—A. Yes, sir.

Q. And the figures which you gave this morning include everything except sales made to other Standard Oil companies?—A. That is as I understand it.

Q. And including Standard Oil companies, it modifies it to the extent of making it 7 per cent instead of 1.33 per cent?—A. I believe that is correct.

Recross-examination by Mr. KELLOGG:

Q. Does the National Oil Company own the Globe Oil Company?—A. I understand so.

Q. Do you know anything about it?—A. They have the same offices.

Q. They advertise is as belonging to the National, do they?—A. No, sir.

Q. Is that all you know about it, that they have the same offices?—A. I know that when we come in competition with them the Globe Oil Company is known as the National Oil Company.

Q. It is?—A. Yes, sir.

Q. You don't know anything about the ownership except
9611 they have the same offices?

Mr. ROSENTHAL. He hasn't said so.

Q. Do you know anything about the ownership of the Atlas Oil Company, of your own knowledge?—A. I believe it was admitted on the stand by Mr. Fretter that the National did own the Globe Oil Company.

Q. I ask you if you know of your own knowledge anything about the ownership of the Atlas Oil Company?—A. It is generally understood among refiners that the National Refining Company owns the Globe Oil Company, and I may state further that Mr. Gardner, who was at one time a partner in the Globe Oil Company, told me himself that he had sold out to the National Refining Company.

Q. When did he tell you that?—A. I should say eight or ten years ago. It was at the time of the purchase.

Q. How about the Atlas? Do you know that they owned the Atlas?—A. In the same general way.

Q. That is all you know about any of these concerns, is what you hear generally?

Mr. ROSENTHAL. That is not what he said.

A. What I know by contact.

Q. Now, take the National Pipe Line; they advertise that they own the National Pipe Line, don't they?—A. Not that I know of.

Q. Do you know they don't?—A. No, I don't.

Q. Isn't it known to everybody in Ohio that the National Pipe Line belongs to the National?

Mr. ROSENTHAL. Do you mean now?

Q. Always has been known?—A. Not that I know of.

9612 Mr. ROSENTHAL. Since you have laid down a code of ethics, you know, for the petroleum trade, even the National Refining Company has changed some of its tactics.

Q. Haven't they always advertised the Peerless Transit Company line as one of their lines?—A. Not that I know of.

Q. It is a car line, isn't it?—A. Yes, sir.

Q. Private car line?—A. Yes, sir.

Q. Didn't they advertise it?—A. Not to my knowledge.

Q. What do you mean by not to your knowledge?—A. I never knew that they did.

Q. Do you know that they did not?—A. I never saw it.

Q. Have you looked over their business and gone and examined their cars to see whether they advertised it or not?—A. I have seen their cars a great many times.

Q. Are they corporations?—A. Not that I know of. They may be, however.

Q. You named some forty independent refineries, you said, that were doing business in Ohio.—A. I said that were competitors with the Standard Oil Company in Ohio.

Q. What were they—refineries?—A. Yes, sir.

Q. Have you got the list of them there?—A. Yes, sir.

Q. Let me see it, please.—A. Do you want me to give it?

Q. I want to see it, the one you testified from.

Mr. ROSENTHAL. What is that?

Mr. KELLOGG. The list of independent refiners.

A. I haven't yet given that information.

Q. You testified to forty independent refiners.

9613 Mr. ROSENTHAL. Yes, but he hasn't given the list.

Mr. KELLOGG. Well, I want the list.

Mr. ROSENTHAL. Well, you can't get it from him now.

Q. What are they? Read them off.—A. What is the question, please?

Q. Read the list of the forty independent refiners that are competitors of yours in Ohio?—A. I thought I had them here, but they are not. I will get it for you if you wish.

Q. Well, I want them now. You had the paper here before lunch, hadn't you?—A. I thought I had.

Q. Where is it?—A. I couldn't tell you.

Q. Well, go and get it then. I want to use it. Where is it?—A. I have no idea. I am not sure that I had it.

Q. Well, name them.—A. That would be a pretty hard proposition. I am perfectly willing to give you the list.

Mr. ROSENTHAL. We propose to put them in before we get through with our case.

WITNESS. I will see that you get them before 10 o'clock to-morrow morning.

Mr. ROSENTHAL. If you put them in.

Mr. KELLOGG. No; I want them to examine you on.

Mr. ROSENTHAL. If you will put them in you will get them. If not, we will put them in in our own good time, because we proposed to put them in.

Mr. KELLOGG. You wouldn't have done it unless I called your attention to it.

Mr. ROSENTHAL. We had the list made up for the purpose of

9614 putting them in in due time, not only a list of those in the State of Ohio, but in every State in the Union.

Mr. KELLOGG. I want the list you examined Mr. Squire on.

Mr. ROSENTHAL. You are entitled to it only in case you agree to put it in. If you agree to put it in we will give you the list.

Q. Do you refuse to give me the list?—A. Oh, certainly not.

Q. Where is it?—A. I don't know.

Q. Where did you last see it?—A. I thought I had it with me. I last saw it in my office in Cleveland.

Mr. ROSENTHAL. Mr. Kellogg, what do you say? We will give you the list if you will agree to put it in.

Mr. KELLOGG. I will take my own way of examining Mr. Squire, if you please.

Mr. ROSENTHAL. Then we will furnish the list in due time, in our own way, when we put in the defense of our case.

Q. Where did you last see the list?—A. In my office in Cleveland.

Q. Did you not bring it to New York with you?—A. I thought I did.

Q. Have you had it since you were in New York?—A. I don't recall it. I had no occasion to use it.

Q. You recall there were just forty, do you?—A. That is as I remember the number.

Q. Now, please name them.—A. I don't believe I can do it.

Q. Name all you can.—A. I would rather not undertake it. I will furnish the list.

9615 Q. Do you decline to do it?—A. No; I do not.

Q. I want to cross-examine you on the list. Will you please inquire of your counsel if they have got it?

Mr. ROSENTHAL. Oh, I haven't got it.

A. If it was here I would be very glad to give it to you. I have no objection to furnishing it as soon as I get it.

Mr. KELLOGG. I want it to cross-examine this witness on.

Mr. ROSENTHAL. You will have an opportunity to put it in, or we will put it in through Mr. Squire.

Mr. KELLOGG. I demand the list now.

Mr. ROSENTHAL. There are a great many things that counsel in a law suit demand that they don't get, you know.

Q. Why didn't you bring it?—A. I thought I did. I intended to.

Q. Why is it that you don't want to give it to me?

Mr. ROSENTHAL. He hasn't said he doesn't want to give it to you, but, on the contrary, he has said he will give it to you. Now, what is the use of putting him in the attitude of refusing when he is not refusing, and when I have repeatedly said we would put it in the record.

Mr. KELLOGG. Of course you said you would put it in the record when I found out that he didn't have it. Of course you will do that.

Mr. ROSENTHAL. Oh, yes; of course you made a wonderful discovery. When we took the pains to make up the list you made a wonderful discovery when you discovered we had it.

9616 Q. Can you name one of them?—A. Oh, yes.

Q. Go ahead and name all you can.—A. The Freedom Refining Company.

Q. Where is it situated?—A. Freedom, Pennsylvania.

Q. Go ahead.—A. Connewango Refining Company, Connewango.

Q. Pennsylvania?—A. I don't know whether that is Pennsylvania or New York. They are right on the border. Coraopolis Refining Company, Coraopolis. Lake Carriers Oil Company, Coraopolis. The Indian Refining Company, Ashland, Kentucky.

Q. How large a concern is the Indian Refining Company?—A. Very large.

Q. What is its capacity?—A. I couldn't tell you.

Q. Go ahead.—A. The National Refining Company. Wyandotte Refining Company.

Q. Will you produce the list to-morrow morning?—A. Yes, sir; I will try to.

Q. All right.—A. There is no reason why I should not give it to you.

Q. All right. That is all.

9617 HARRY R. POTTER, recalled on behalf of defendants, testified:

By Mr. ROSENTHAL:

Q. When you were on the stand before you were shown a ticket showing a 9½-cent price given to a man by the name of Binns at Lorain by you while you were selling oil there as an agent of the Columbia Refining Company. That was after you had testified that the Columbia Refining Company price had been cut by you from 10 cents to 8½ cents. You were then shown this 9½-cent ticket of a man by the name of Binns, by Mr. Kellogg, and you said that if he was the man who ran a double grocery store or a double store there at Lorain he was the man to whom you gave a special rebate of one cent less than the tank-wagon price. Have you since learned whether or not that man Binns is the man who ran the double store that you had in mind?—A. I have ascertained that Mr. Binns is the man that ran the three stores in Lorain, and that he told me that he had a special price of one cent rebate from Mr. R. D. Day of the Columbia Refining Company.

(No cross-examination.)

9618 JACOB GRAZE, called on behalf of the defendants, being duly sworn, testified as follows:

Direct examination by Mr. ROSENTHAL:

Q. Mr. Graze, where do you live?—A. Massillon, Ohio.

Q. How long have you lived there?—A. Nearly thirty years.

Q. What is your business?—A. Grocer.

Q. How long have you been engaged in that business?—A. Nearly thirty years; ever since I have been in Ohio.

Q. As a grocer do you sell oil?—A. Yes, sir.

Q. And have you been for a great many years?—A. Yes, sir.

Q. Had you been buying your oil of the Standard Oil Company?—A. Yes, sir.

Q. Have you always done that?—A. No, sir; not always.

Q. Have you bought of other concerns?—A. Yes, sir.

Q. What other concerns?—A. Are you referring to tanks now, or barrels?

Q. Tank wagon.—A. Tank wagons only?

Q. Or barrels, either one.—A. Years ago when there was no tank wagon I used to buy it in barrels, but of late years there are two companies there furnishing us with tanks.

Q. I will direct your attention to the specific thing for which I called you. Petitioner's Exhibit 829, which was offered by the Gov-

ernment, contains the following statement, among others: "Massillon"—now, there is only one Massillon in Ohio, is there not?—A. That is all.

9619 Q. "Nearly all of the dealers except peddlers are on half-cent rebate on Albaine and gasoline from tank wagon." Were you one of those dealers?—A. I guess I was.

Q. In the years 1897 and 1898 I am talking about now.—A. Yes; I sold oil in those years.

Q. And did the Standard Oil Company give you a discount, or a rebate, as they are pleased to call it on the other side of the table, of a half a cent a gallon?—A. Yes, sir.

Q. At that time, on the oil that you purchased?—A. I can't tell you exactly to the year; it was along about that time.

Q. Do you know the Freedom Oil Company?—A. Yes, sir.

Q. That was a company competing with the Standard Oil Company at Massillon, was it not?—A. Yes, sir.

Q. Can you tell us why it was and the circumstances under which you got your one-half cent a gallon discount from the Standard Oil Company at that time?—A. Oil was very low then and they were trying to get a foothold.

Q. Who were?—A. The Freedom Oil Company.

Q. Where?—A. At Massillon, Ohio.

Q. Now tell just what they did when they tried to get a foothold there.—A. They would give us an additional five gallons of oil with every 50 gallons that we purchased.

Q. You mean, give you 5 gallons free with every 50 gallons?—A. Give us 55 gallons and bill us with 50 gallons.

Q. Give you 55 gallons and bill you with 50?—A. Yes, sir.

Q. That is the way they were trying to start their trade

9620 there, is it?—A. That is the way they were trying to get a foothold.

Q. By a gift of that 5 gallons with every 50 gallons?—A. I presume so; yes.

Q. To whom did you tell that? Did you tell that to the Standard Oil agent?—A. I don't know whether I did or not; I don't recollect; but he found it out some way.

Q. How do you know he did?—A. Because he came around and said he would give us a half a cent a gallon rebate on oil if we would buy oil from them.

Q. And at that time did you and he talk about that practice of the Freedom Oil Company in giving away 5 gallons with each 50?—A. I don't remember distinctly.

Q. Did you ever talk with him about that?—A. No; I don't think I did.

Q. That was generally known there in the grocery trade, wasn't it?—A. Yes, sir; I think——

Q. And it was a practice that the Freedom Oil Company had adopted there in that city to start its trade?—A. Yes, sir.

Q. Don't you remember having this kind of a talk with the agent of the Standard Oil Company? Did you not say, in substance, to the representative of the Standard Oil Company with respect to the Freedom Oil Company competition, that it was a business proposition with you, and that if you were to buy of the Standard you must have a price equal to the Freedom price, so that you could meet the price made by your competitors in the grocery business who were selling Freedom oil?—A. Yes. I don't know as I said it in just that many words, but I said to him we would have to buy oil where we
9621 could compete with our competitors—sell oil at the same price they were selling.

Q. Well, didn't you say that to him, in substance, Mr. Graze? I don't mean whether you said it in those exact words——A. I think I did; yes.

Q. But wasn't that the gist of the talk that you had with him?—A. Yes, sir.

Q. If the Standard had not given you that discount of a half a cent a gallon, where would you have bought your oil?

Mr. KELLOGG. That is objected to.

A. Wherever I could have bought it cheapest.

Cross-examination by Mr. KELLOGG:

Q. Did the Freedom give you the 5 gallons in 50?—A. Yes, sir.

Q. They gave it to you. Which gave first, the Freedom or the Standard?—A. We were buying from the Standard, and then the Freedom came and gave us this deal, and of course we bought from them.

Q. When did the Freedom go into Massillon?—A. I can't tell you that.

Q. Long prior to 1898?—A. I would think so; yes.

Q. They had been there a number of years, hadn't they?—A. Yes, sir.

Mr. ROSENTHAL. Do you mean to ask him whether the Freedom had been there in 1895 or 1896?

Mr. KELLOGG. I mean to ask him if they had been there a number of years prior to 1898.

A. No; not a number of years.

Q. Several years?—A. Several years before that. I think
9622 not before 1896 or 1897, along there. Perhaps 1895. Not a number of years before 1897.

Q. What do you mean by that, that they were there a number of years before 1898?—A. Not a number of years before 1898.

Q. How long before 1898?—A. I couldn't tell you.

Q. About how long?—A. Three or four years, perhaps.

Q. That is what I thought. They were there three or four years before 1898?—A. Yes.

Q. And had been doing business there selling oil?—A. Yes, sir.

Q. Do you know who made the first cut in price in Massillon?—A. No; I do not.

Q. You don't know anything about it, do you?—A. No. You are speaking about wholesale prices now?

Q. Yes. Whether it was the Standard or the Freedom.—A. No; I do not.

Q. Did the Standard run some peddlers in Massillon at that time?—A. I don't know, really. There were some peddlers there.

Q. There were peddlers there?—A. Yes, sir.

Q. Were they cutting prices?—A. I think not.

(An adjournment was here taken until the morning of Wednesday, September 23, 1908, at 10 o'clock.)

9623 ROOM 715, CUSTOM-HOUSE, NEW YORK CITY,
Wednesday, September 23, 1908—10 a. m.

The hearing was resumed before the special examiner, Hon. Franklin Ferriss, at the above time and place.

Present: On behalf of the petitioner, Mr. Frank B. Kellogg, Mr. Charles B. Morrison, Mr. J. Harwood Graves.

On behalf of the defendants, Mr. Moritz Rosenthal, Mr. F. L. Crawford, Mr. Douglas Campbell.

F. B. SQUIRE, recalled on behalf of the defendants, testified:

Direct examination by Mr. ROSENTHAL:

Q. Have you that list of refineries with you now?—A. I have, sir.

Q. Produce it, please.—A. Yes, sir.

(Witness hands paper to Mr. Kellogg.)

Mr. KELLOGG. Please mark this as an exhibit.

(The paper was marked "Petitioner's Exhibit 927.")

Recross-examination by Mr. KELLOGG:

Q. Mr. Squire, the forty refineries that you named yesterday are the ones contained in Petitioner's Exhibit 927, are they?—A. I believe they are all there; yes, sir. I have not counted them, but——

Mr. ROSENTHAL. I also offer that in evidence as Defendants' Exhibit 103.

9624 Mr. KELLOGG. What is the object?

Mr. ROSENTHAL. Because the court may study our exhibits as well as your exhibits, and I want them to see that as an exhibit from us. It makes evidence for us. It does not make evidence for you.

Mr. KELLOGG. Oh, doesn't it! I suppose evidence that I get out of your witnesses is not evidence for the Government.

(The paper previously marked "Petitioner's Exhibit 927" is also marked "Defendants' Exhibit 103.")

Q. Now, several of these companies are merely subsidiary companies of the National Refining Company, are they not?—A. I don't think so.

Q. What is the Sterling Oil Company?—A. It has a refinery at Marietta.

Q. Large or small—what is its capacity?—A. I don't know anything about its capacity.

Q. Where does it get its crude oil?—A. I don't know.

Q. Doesn't it buy of the Standard Oil Company?—A. I could not tell you.

Q. Where did you get this list?—A. I got it from my record at home.

Q. What kind of a record?—A. Oh, a memorandum.

Q. What kind of a memorandum?—A. Like that.

Q. How did you happen to have it in your file?—A. Oh, I make it up from time to time.

Q. You made it up from time to time?—A. Yes, sir.

Q. Didn't you make it up for this case?—A. No, sir.

Q. If you made it up from time to time, you must know
9625 something about these concerns?—A. I know of them as competitors; that is all.

Q. As competitors; and you know what their business is and where they do business?—A. Yes, sir.

Q. Well, now——A. In a general way, of course.

Q. The Pennsylvania Lubricating Oil Company is a lubricating manufacturing company?—A. I could not tell you what they make.

Q. Then, how do you know they compete with you?—A. Because we have come in contact with them in the trade.

Q. Now, I notice you have three National Refining companies—all the same company with three refineries, isn't it?—A. If they are, I don't know it.

Q. The National Refining Company of Cleveland, the National Refining Company of Findlay, and the National Refining Company of Marietta. It is all one concern, and it has three refineries; isn't that true?—A. Well, that may be true.

Q. The Gulf Refining Company, of Port Arthur, Texas, does that do business in Ohio?—A. Yes, sir.

Q. Now, these are substantially all the independent refineries there are in the United States east of the Rocky Mountains, are they not?—A. Oh, my, no.

Q. Name some more.—A. All the seaboard refineries.

Q. Where are they?—A. I am not familiar with those——

Mr. ROSENTHAL. Here is a list containing a great many, which I propose to put in evidence. It may refresh your recollection [handing paper to witness].

WITNESS. The Pure Oil Company, of Philadelphia; the Red "C" Oil Manufacturing Company, of Baltimore——

9626 Q. One moment. Does the Red "C" Oil Manufacturing Company have a refinery?—A. I really don't know whether they do or not. They are described here as a manufacturing company. I should naturally suppose they were refiners.

Q. It is a selling concern. It has no refinery, has it?—A. I don't know whether it has or not.

Mr. ROSENTHAL. I think it has.

Q. What else?—A. The Union Petroleum Company, of Philadelphia.

Q. Has that got a refinery?—A. I believe it has. There is the Wellsville Refining Company.

Q. Where is that situated?—A. Wellsville.

Mr. ROSENTHAL. What is that list you have in your hand?

WITNESS. It is supposed to be a letter head of the National Petroleum Association.

Mr. ROSENTHAL. A printed letter head.

WITNESS. Giving the names of the refineries which are supposed to be in the association.

Mr. ROSENTHAL. I offer it in evidence and ask that it be marked Defendants' Exhibit 104.

(The paper was marked Defendants' Exhibit 104.)

Mr. KELLOGG. No objection to it, because it is already in evidence. The Government put it in a long while ago.

Mr. ROSENTHAL. The Government never put it in.

Mr. KELLOGG. It appears in evidence—every one of those.

Mr. ROSENTHAL. Not from the source that you state, though.

Mr. KELLOGG. Yes.

Mr. MORRISON. You put it in.

Mr. ROSENTHAL. Yes, and examined Boltz on it.

9627 Mr. MORRISON. You put it in as a letter of the National Refining Company.

Mr. ROSENTHAL. I was not certain. We examined Boltz about it.

Mr. MORRISON. You put it in at Cleveland.

Q. Have you named all of those that you can find in Exhibit 104 that are not in Exhibit 927?—A. I think so.

Mr. ROSENTHAL. They show by comparing them.

Q. Now, the Standard Oil Company have a refinery at Parkersburg, West Virginia, haven't they?—A. The Standard Oil Company of Ohio?

Q. The Standard Oil Company.—A. The Standard Oil Company of Ohio has not.

Q. Well, it is one of the Standard Oil companies?—A. I could not tell you.

Q. You don't know? You don't know whether any of the Standard Oil companies have a refinery——A. I have not been to Parkersburg.

Q. You have never been to Parkersburg in your life?—A. No, sir.

Q. So you don't know anything about it?—A. No, sir.

Q. Did you ever hear of the Standard Oil Company of New Jersey?—A. I have.

Q. You have?—A. Yes, sir.

Q. Where does it do business?—A. I think New York City.

Q. Does it own all the stock of the Standard of Ohio?—A. It owns all of it, I believe, but four or five shares. I have so testified to that.

9628 Q. Now, does any subsidiary company of that company own a refinery at Parkersburg?—A. I couldn't tell you.

Q. You don't know anything about it?—A. No, sir.

Q. Where are the refineries of the Standard Oil Company of New Jersey?—A. I couldn't tell you.

Q. You don't know anything about it?—A. No, sir. I am not a stockholder of that company and consequently have no interest in it.

Q. You have no knowledge of it. Haven't you been one of the leading men of the Standard Oil of Ohio for more than twenty years?—A. Yes, sir.

Q. Haven't you been sent on important business for that company outside of the State of Ohio?—A. I don't recall any.

Q. Haven't you been doing business for the Standard Oil of New Jersey at various places?—A. No, sir.

Q. You don't recall being sent anywhere?—A. Never.

Q. Were you sent to St. Paul to buy out a concern there?—A. No, sir.

Q. Did you pay over $80,000 to Mr. C. W. Bunn to buy out the Richardson & Bartels Oil Company?—A. No, sir.

Q. You never did?—A. No, sir.

Q. Did you buy it?—A. Not that I know of.

Q. For any of the Standard concerns?—A. No, sir.

Q. Did you furnish the money?—A. Not that I remember.

Q. You never did?—A. Not that I know of.

Q. Do you remember Bartels & Richardson or Richardson & Bartels?—A. There was, I remember, a concern that Mr. Bartels was interested in.

9629 Q. Were they not marketing oil through Wisconsin, Minnesota, and North and South Dakota?—A. I believe they were.

Q. Were they not marketing oil for the Standard of Ohio?—A. No, sir.

Q. What company were they?—A. I could not tell you.

Q. The Standard of Indiana?—A. I could not tell you.

Q. Do you know where the Standard of Indiana has its refineries?—A. I know where it has one refinery.

Q. Where?—A. At Whiting.

Q. At Whiting, Indiana? Did you arrange the terms of the purchase of Bartels & Richardson?—A. I don't remember.

Q. You don't remember at all?—A. Nothing of the kind; no, sir.

Q. Did you not turn over $80,000 in cash, or a draft, to Mr. C. W. Bunn to buy out that concern?—A. Not that I remember.

Q. Has the Standard any refinery at Marietta, Ohio?—A. Not the Standard Oil Company of Ohio.

Q. Has any of the Standard companies?—A. I couldn't tell you.

Q. Do you know what refineries are situated at Marietta, Ohio?—A. I have already answered that question. I have never been there. I don't know anything about it.

Q. You don't know anything about it?—A. No, sir; absolutely.

Q. Then, how does it happen that you testified that there are two refineries in this list situated at Marietta, Ohio?

Mr. ROSENTHAL. He has not testified to that. He has given you that list, which he said he made up from memoranda in his office, as a correct list.

9630 Q. Is this list correct that you gave me, or isn't it?—A. It is correct as far as I know.

Q. Where did you get the information that there are two independent refineries at Marietta, Ohio?—A. From contact with the trade.

Q. Do you know of any other refineries there?—A. No, sir.

Q. You do not?

Mr. ROSENTHAL. If that does not satisfy you, why, you can get it from Mr. Garfield's report, and the testimony in this case offered by the Government.

Q. Do you know of any other independent refineries in the United States except contained in these two lists that you have given here?—A. In a general way I know that there are a great many.

Q. Where?—A. All over the country.

Q. Name one.—A. Oh, I can't think of those Texas refiners. And the Jennings Refinery.

Q. Now, wait a minute; about the Texas refineries. Name one of them in Texas that is an independent refiner. The Corsicana Refining Company?—A. The Gulf Refining Company.

Q. You have named them here already. I mean other than this list.

Mr. ROSENTHAL. Let him have the list.

A. We do not come in contact with the trade outside of the State of Ohio.

Q. Do you know of another single independent refinery in the United States except those contained in these two lists?—A. Not of my own knowledge.

Q. I thought not.

9631 Mr. ROSENTHAL. Oh, well, we will show that there are a great many.

Mr. CRAWFORD. Over three hundred.

Mr. KELLOGG. Of course.

Mr. ROSENTHAL. In due time.

Q. Has the Standard Oil Company of New Jersey, or any of its subsidiary corporations, got any refineries in Pennsylvania?—A. I could not tell you.

Q. You don't know anything about it?—A. No, sir.

Q. Does your company buy any refined oil?—A. Yes, sir.

Q. Of what companies?—A. Of different companies.

Q. Name them.—A. The Solar Refining Company.

Q. Where is that situated?—A. Lima, Ohio.

Q. Is that a Standard Oil Company?—A. I couldn't tell you.

Q. Do you know whether the Solar Refining Company is controlled by the Standard Oil of New Jersey, through stock ownership?—A. I do not.

Q. Did you ever hear that it was?—A. I have heard it testified that it was.

Q. But you know nothing about it whatever?—A. No, sir.

Mr. ROSENTHAL. Beyond what you have heard?

WITNESS. Beyond what I heard in that testimony.

Q. You never made any inquiry?—A. No, sir.

Q. And so far as you know, the Solar Refining Company is an absolutely independent company?

Mr. ROSENTHAL. I object to that upon the ground that the witness has just testified that he has heard that it was not; that he
9632 heard it testified to that it was not, and that it was owned by the Standard Oil Company of New Jersey.

Q. So far as you know, it is an absolutely independent company?

Mr. ROSENTHAL. I object——

A. I have already answered that question two or three times.

Q. Will you answer that question any further?—A. I have already answered it.

Q. You decline to make further answer?

Mr. ROSENTHAL. I insist he has answered it fully.

A. I can't answer it any more than I have done. I am perfectly willing to give you an answer.

Q. Now, what other companies do you buy of?—A. Occasionally from the Eclipse, of Franklin.

Q. What company owns that?—A. I don't know.

Q. Does that belong to the Standard Oil of New Jersey or some one of its subsidiary corporations?—A. I couldn't tell you. I don't know.

Q. You don't know anything about it?—A. No, sir.

Q. What other company?—A. I think that is about all.

Q. Do you know anything about the Ohio Oil Company's ownership?—A. No, sir.

Q. Do you know whether it belongs to the Standard of New Jersey?—A. I do not.

Q. You have no knowledge on that subject whatever?—A. None whatever.

Q. Did you ever hear that it belonged to the Standard Oil of New Jersey?—A. Yes, sir; I heard Mr. Donald testify to that fact.

9633 Q. Who?—A. Mr. Donald.

Q. Who is he?—A. One of the officers of the company.

Q. Testified to that fact?—A. Yes, sir.

Q. But that is all the knowledge you have on that subject?—A. Absolutely.

Q. In the course of your business you have never received such information?—A. No, sir.

Q. Do you know anything about the ownership of the Standard Oil of Indiana?—A. I do not.

Q. Have you ever heard that it belonged to the Standard Oil of New Jersey?—A. I don't recall that I ever heard that it belonged to the Standard Oil of New Jersey.

Q. You don't recall that you ever heard it. Do you know anything about the Manhattan Oil Company?—A. I do not.

Q. Did you ever hear that that belonged to the Standard Oil Company of New Jersey?—A. No, sir.

Q. You never heard that?—A. No, sir.

Q. Do you know anything about the ownership of the Buckeye Pipe Line Company?—A. I do not.

Q. Did you ever hear that that belonged to the Standard Oil of New Jersey?—A. No, sir.

Q. Or the National Transit Company?—A. No, sir.

Q. You never heard that?—A. No, sir; except in the newspapers.

Q. Except in the newspapers. Can you give us any of the companies that you have learned belonged to the Standard Oil of New Jersey, other than the Standard Oil of Ohio?

Mr. ROSENTHAL. Now, just one minute. I object to that question upon the ground that it is utterly immaterial and upon
9634 the ground that it is not cross-examination of anything that he has testified to on the direct, and I advise the witness that he is not under the slightest obligation to answer it.

Mr. KELLOGG. I am perfectly willing he should refuse, if he wants to. Please read the question.

(The reporter read the question, as follows: "Can you give us any of the companies that you have learned belonged to the Standard Oil of New Jersey, other than the Standard Oil of Ohio?")

A. I know nothing about their ownership or property, except that which relates to the Standard Oil Company of Ohio.

Q. Have you ever been an official or a director of any other oil company except the Standard of Ohio?—A. No, sir.

Q. Never have?

Mr. ROSENTHAL. You mean of any other Standard company?

Q. Yes. You have been an important official—a manager of that company how many years?—A. I have been identified with it since 1885.

Q. You were familiar with the litigation that the Standard Oil of Ohio had in the State of Ohio when the suit was brought against it by the State of Ohio, were you not?—A. At what time?

Q. The suit was brought about 1890 and decided about 1892.—A. I have some general knowledge of it.

Q. Didn't you testify in that case?—A. I don't recall that I did.

Q. You don't recall that you did. You have no recollection of ever having testified?—A. I don't think that I did.

Q. You don't think you did?—A. No, sir.

9635 Q. You are quite sure you did not?—A. Yes; I am quite sure I did not.

Q. You are quite sure you did not testify in that case. Did you not testify in that case about the distribution of the stock held by the Standard Oil trustees in the Standard Oil of Ohio?

Mr. ROSENTHAL. The witness has already testified that he has not any recollection of having testified in that case.

Q. Do you recollect the case at all?—A. Oh, yes; in a general way.

Q. You do! You recollect that the supreme court of Ohio decided that the Standard Oil Trust was illegal—do you recollect that?—A. Mr. Kline so advised us.

Mr. ROSENTHAL. In the State of Ohio.

Q. In the State of Ohio.—A. When I say "us," where I have used the relative there, "us" or "we," I refer always to the Standard Oil Company of Ohio.

Q. Do you know anything about the Union Tank Line Company?—A. I do not; no, sir.

Q. Is it a company owning tank cars?—A. I have seen tank cars with that name on them.

Q. You know nothing about what company they belong to?—A. No, sir; I absolutely do not.

Q. Nothing whatever. Do you ship your oil in Union Tank Line cars?—A. We do.

Q. Who pays for the use of them?—A. I could not tell you.

Q. You don't know. Does your company?—A. I don't think—I am not certain.

9636 Q. You don't know that the Union Tank Line Company belongs to the Standard Oil of New Jersey?—A. I have already said I did not.

Q. Oh, I did not understand you. You have no knowledge whatever of its ownership?—A. No, sir.

Q. Did you ever hear that it belonged to the Standard Oil Company of New Jersey?—A. Only through the newspapers.

Q. Only through the newspapers?—A. That is all.

Q. But in your business relations, in shipping oil in Union Tank Line cars, you never received any information as to the ownership of the Union Tank Line Company?—A. Absolutely none.

Q. And so far as you know it is entirely independent from the Standard Oil of New Jersey?—A. As far as I know. I have no knowledge of its ownership.

Q. Do you buy any oil from the Standard Oil Company of Indiana?

Mr. ROSENTHAL. I object to that. You went into that yesterday.

Mr. KELLOGG. No; I did not.

Mr. ROSENTHAL. Excuse me; you did.

Q. Do you buy any refined oil? I went into the crude oil yesterday.—A. I don't recall.

Q. You don't recall ever having bought any?—A. No, sir.

Q. Now, the oil you buy of the Eclipse Works, at Franklin, was it——A. Yes, sir.

Q. You ship that into Ohio, do you?—A. We might.

Q. I didn't ask you whether you might ship it. Of course you might if you wanted to, but do you?—A. I could not answer that question definitely.

9637 Q. What do you buy it for?—A. To supply our trade.

Q. You do not have any trade outside of Ohio, do you?—A. Oh, we do. I have testified to that.

Q. Do you market your oil anywhere except in Ohio?—A. Certainly.

Q. By tank wagon?—A. Yes, sir.

Q. Where?—A. Across—just over the line.

Q. Just over the line. What territory? Please describe it.—A. I have already testified and given you the figures of the percentage of the tank-wagon business that goes out of the State, and that covers those shipments.

Q. I know, but the testimony you gave about tank wagons is where the tank wagon just crosses the line?—A. Yes, sir.

Q. Now, that oil goes from Ohio into other States, doesn't it?—A. Yes, sir.

Q. This question I asked you was whether the refined oil that you buy of the Eclipse Works is shipped into Ohio.—A. Yes, sir.

Q. Is it?—A. I have already testified to that—in the bulk shipments. That covers those bulk shipments.

Q. Then, that is shipped into Ohio?—A. I think it is.

Q. All right.—A. And is covered by my testimony given yesterday, giving the per cent of bulk shipments over the State line.

Q. Were you not the secretary of the Standard Oil Company of Ohio in 1890 and 1892?—A. Yes, sir.

Q. Did you not sign the certificates of stock that were issued to the Standard Oil trustees?—A. I could tell you if I saw it.

Q. But you have no recollection of having testified in that 9638 case?—A. In the ouster case?

Q. Yes.—A. No, sir.

Mr. ROSENTHAL. Well, you have the record there. Did he?

Mr. KELLOGG. Of course he did. Everybody knows it that lives in the State of Ohio.

WITNESS. But I did not testify.

Mr. ROSENTHAL. Why don't you show it by the record?

WITNESS. I did not testify.

Q. Do you swear you did not testify?—A. I swear I did not testify in the ouster case.

Mr. ROSENTHAL. You hold the record in your hand, Mr. Kellogg.

Q. Did you testify in the contempt proceedings?—A. I did.

Q. Oh, you did?—A. I did.

Mr. CRAWFORD. That is not what you asked him.

Q. Was not that in the ouster case?—A. Oh, no; that was six years afterwards.

Q. Wasn't it a petition filed in the ouster case?—A. I don't think so.

Q. And a part of the ouster case?

Mr. ROSENTHAL. That is not a fair question.

Q. That was it. You were trying to get around my question?—A. Oh, I don't think so.

Mr. ROSENTHAL. That is not a fair question to ask a layman.

WITNESS. I answered your question.

Mr. ROSENTHAL. Your question, Mr. Kellogg, was limited to the ouster case in 1890 and 1892. The contempt proceeding was
9639 in 1898, six years afterwards. You know that this man did not testify in the ouster proceedings as such.

Mr. KELLOGG. It was all in the ouster proceedings. It was a proceeding for contempt.

Mr. ROSENTHAL. Oh, well, of course the proceeding for contempt might have been entitled in the same way as the ouster case was entitled, but it was not the same as the ouster case, nor was it the ouster case, as your question indicated.

Mr. KELLOGG. That is all, Mr. Squire.

(An adjournment was here taken until Wednesday, September 30, 1908, at 10.30 o'clock a. m., at the office of the United States marshal at Chicago, with an alternative adjournment to Monday, October 5, 1908, at 10.30 o'clock a. m., in case a motion to fix a time is presented at Denver next week.)

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